

A  
NEW GUIDE  
FOR  
ARTICLED CLERKS

May, 1908.

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# A NEW GUIDE FOR ARTICLED CLERKS.

BY  
HORACE W. STIFF, LL.B.  
SOLICITOR.

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## PREFACE.

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THE rapidly increasing popularity of the lower branch of the legal profession would seem to warrant the appearance of a new Guide for Articled Clerks. The primary object of this work is to give the student an outline of what he must do in order to become a solicitor, and every effort has been made to state the effect of the various regulations with accuracy. At the same time the author has endeavoured to render the work as useful as possible, by adding practical advice upon the many questions which must, from time to time, be decided by the student. No authority is claimed for the views so expressed, which are indeed in the nature of *obiter dicta*, and each student must judge for himself as to how far they are useful in his particular case. With regard to the question of Examinations, the reader will find a complete course of reading for each of the Incorporated Law Society's

Examinations, which if carefully adhered to will, it is believed, enable the student to attain success. In the later chapters, and especially that on the study of the law, an attempt is made to point out in some detail the various means which are open to the articled clerk for acquiring proficiency in his future profession. Experience shows how frequently these opportunities are neglected, and it is hoped, therefore, that this part of the work may answer a useful purpose. In conclusion, a considerable amount of information has been added in the Appendix, where, *inter alia*, the questions asked at the most recent Law Examinations have been given, together with complete sets of specimen answers.

It only remains to add that any words by way of introduction must necessarily be somewhat superfluous, for *res ipsa loquitur*. Whether this work will answer the objects which have been briefly indicated must be left for the reader to decide.

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## CHAPTER I.

### On the Choice of a Profession.

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THE choice of a profession is so great an affair in life, and one on which a man's future happiness so largely depends, that it seems strange that parents should not in this matter consider rather the character and abilities of their children than their own inclinations. Yet it is to be feared that this is not done in all cases, and that parents who have conceived a liking for a particular profession will often send their sons into it, though it may be one for which they are wholly unfitted and entirely wanting in those qualities necessary to achieve success. In this matter it would, no doubt, be both difficult and dangerous to lay down any rules of a general character, as the final decision will in many cases be determined by considerations of a private nature,

into which it would be useless to enter in a work like the present. At the same time no one should decide this most important step in life without duly weighing what it means beforehand.

What should be a man's reason for taking up law as a profession ; what measure of success may he reasonably anticipate, and what are the special qualities which he should possess? These are natural questions, and in order to better enable each one to answer them for himself, it is proposed in this chapter to point out as briefly as possible the distinctive features of that profession.

In considering this question it is proposed, in the first place, to point out the advantages which the profession still retains, and which should not be overlooked. The study of the law is one which possesses great attraction for a man of education and intelligence, and although it is popularly considered to be a dry and tedious study, it will probably be found as interesting as medicine, political economy, or any other of the sciences which engage the attention of professional men. It is often said that solicitors, being concerned rather with the practice than the theory of the law, do not study law as a science, but admitting that there is much truth in this statement, there is no reason why this should be the case, and there are at the present time many solicitors who are really sound lawyers.

Dr. Arnold, in one of his letters, says that the law attracted him as much in its study as it repelled him

in its practice, and it is the opinion of many, that those who devote much time and labour to the study of those general principles which form the subject of the science of Jurisprudence frequently conceive a disgust for the practice of the law. There can be little doubt that many great jurists have shown themselves incapable of practice, but it is believed that this is not a necessary tendency of the scientific study of the law. In his lectures on Jurisprudence, John Austin points out that a well-grounded knowledge of the general principles of Jurisprudence is no inconsiderable help to the study of English Law, and will enable the student to acquire the actual system more readily and rapidly than if he had at once sat down to the study of it, or tried to acquire it empirically. He points out that this system is adopted with great advantage in the Prussian Universities.

It is to be regretted that little or no provision for such a scientific study of the law as suggested is made in the professional training of a solicitor, but here the remedy is in the student's own hands. The course of reading which is necessary in order to obtain the London LL.B. degree, referred to in a later chapter, comprising as it does the subjects of Jurisprudence and Roman Law, will be found an admirable addition to the ordinary training of the would-be solicitor, and may be taken in conjunction with his other work by a man who is really interested in his future profession without necessitating any too laborious course of study.

Turning now to the pecuniary prospects which the profession offers, it is believed that every one of ordinary abilities and a fair amount of interest is almost certain to realise a respectable income, though fame and fortune will be reserved for the more favoured few. Appointments as law clerks both to private firms and public institutions are very numerous, and after admission a solicitor can usually obtain immediately a clerkship in one of the larger firms of the profession at a salary ranging from £80 to £200 per annum, according to his ability.

Another point which should not be overlooked is the possibility of the young solicitor obtaining a managing clerkship or partnership in the office where he was articled. This not unfrequently happens when the clerk, having worked well and conscientiously during his articles, has thereby rendered himself indispensable to his principal.

Then, too, a young solicitor who opens an office need not risk an unknown amount of capital, but it will be possible for him to form a tolerably accurate estimate of his necessary expenditure. The incomes which are made by successful solicitors are large, and to acquire even a moderate practice is a prize well worth striving for.

And lastly, there are many appointments of considerable value which are open to solicitors, and which are referred to in a later chapter. In choosing the

profession, it is hardly necessary to say that the biggest prizes ought not to be counted upon, as they are obtained chiefly through influence of one kind or another.

To these a further advantage may now be added. In consequence of a new rule made by the Benchers of the Inns of Court, it is possible for a solicitor of not less than five years' standing on satisfying certain formalities and passing a by no means difficult examination, to cease to be a solicitor and become a barrister. Thus a man who finds himself unfitted for his occupation may, without the expense of another professional training, enter upon the more brilliant career of an advocate, and pass without break from one profession to the other. Indeed, the solicitor-barrister will possess advantages which are not shared by the barrister who has not previously been a solicitor, and his chances of success at the bar will be proportionately greater. Not the least of these advantages will be found in the number of acquaintances which he will have formed in that branch of the profession to which he formerly belonged, and which will enable him to obtain a fair start in his new career, which is just what the ordinary barrister sometimes never gets.

Turning now to those points which are likely to strike the reader as unfavourable, it is certain that the profession of a solicitor is one which involves much hard and continuous work. As an old legal sage well puts it, "The Law is a jealous mistress and suffers no rivals."

In order to qualify to practise, it is necessary to undergo a long and arduous course of study, and one by no means so independent as that which is required for the higher branch of the legal profession. After admission a man must be prepared to work as hard, and to undergo as much drudgery, as in any other career which he might choose. He, then, who has no mind for the patient study of the "lawless science" of the English law,

" That codeless myriad of precedent,  
That wilderness of single instances,"

had better take to some other profession as quickly as may be ; he is only making a sure thing of disappointment, and crowding the already narrow gates of success.

A further point which should not be overlooked is the sedentary nature of the profession. Many a man finds too late that the necessary restraint and confinement to the office which he has to undergo is a burden to him, and so fails in the struggle, though otherwise well qualified to succeed. This evil should be counteracted by regular and constant outdoor exercise and abundance of fresh air ; however, it is proverbial that solicitors are long-lived, in spite of this "labour of the law."

Again, there can be but little doubt that law, in common with the other great professions of physic and divinity, is at the present time overburdened with practitioners, and it is certain that to those persons who

without interest or great ability risk themselves in the profession of the law, but a small measure of success can fall. In one of his essays, Addison playfully pictures the body of the law as encumbered with superfluous members that are like Virgil's army, which was so crowded that many of them had not room to use their weapons. Nor is competition now less keen and hard than formerly, and he who scans the yearly lists of successful candidates at the Solicitor's final examination, may well hesitate ere he enrolls himself in the army of the "great unbriefed." This hesitation will not be lessened by a leisurely ramble down Bedford Row, or Ely Place, or in the neighbourhood of Lincoln's Inn Fields. For here, on every door, appears the name of some large and well-known firm representing an endless multitude of solicitors, "good and virtuous, and learned, and of good fame."

It is interesting to learn that by various old statutes the number of attorneys was limited from time to time. The eastern counties particularly appear to have suffered from an excess of attorneys, as we find, in an amusing manner, from an Act passed in the fifteenth century. It is pathetically set forth in the preamble, that "not long before, within the city of Norwich, and the counties of Suffolk and Norfolk, there were but six or eight attorneys at most, in which time *great tranquillity* reigned there; but that now in the said city and counties there were above fourscore attorneys, the greater part of whom,

having nothing else to live upon, spent their time in fomenting and encouraging little, trifling, and vexatious suits, to the no small damages of the said city and counties. Wherefore it was enacted that, from thenceforth there should be but six common attorneys in either of the said counties, and two in the city of Norwich." After this, it is to be hoped that the ancient city of Norwich returned to its accustomed state of tranquillity, though at a later time, we find that Lord Coke repeatedly speaks of the increase of litigation being caused by the *swarm of informers* and the *multitude of attornies*. It is not, therefore, to be wondered that from an early period the term attorney was often used reproachfully, and as almost synonymous with knave or swindler. Pope, referring to the "Man of Ross" making up differences, alludes to the office of attorney in unflattering terms in the following lines :

" Despairing quacks with curses fled the place,  
And vile attorneys now an useless race."

Even Dr. Johnson shared in the popular prejudice, for he observed to Boswell that "he did not care to speak ill of any man behind his back, but he believed the gentleman was an attorney." In times nearer to our own the great novelist, Charles Dickens, has given us some offensive pictures of professional life in his delineations of Messrs. Dodson & Fogg, and the solicitors of the Fleet. It is probable that, at the present time,

no value attaches to the mere title of solicitor in the matter of social distinction. Although a solicitor is popularly supposed to be a gentleman by the statute law of England, he is the victim of a prejudice which is in inverse ratio to knowledge. The popular conception of the business of a solicitor is vague, and he is too often regarded by a somewhat illiberal public as a gentleman who getteth "silver for noht." Though it is doubtless only too true that there are certain members of the profession whose conduct will not bear the strictest scrutiny, yet on the other hand, what profession or trade can claim to itself a body of members wholly immaculate?

Taking a wide survey of the legal profession at the present time, we may trust that the words of the learned Mr. Justice Blackstone in his celebrated Commentaries are true, and that, "as a whole, there is no body of men in the kingdom who are more highly educated or more industrious than these gentlemen are, or more estimable in their private and in their professional behaviour."

A few of the many considerations which require weighing before the student chooses the law as his future profession have now been pointed out, and it only remains to add that, in the words of an old writer, the "compleat" solicitor ought to have "a good natural wit refined by education, perfected by learning, balanced by discretion, and to manifest all a free and voluble

tongue." The student who can bring these several qualities to the struggle, together with a real liking for the practice and study of the law, need not fear failure, but he must remember that it has been wisely said that the crown of success will only be given to perseverance and a variety of resource.

## CHAPTER II.

### The Preliminary Examination.

---

IN order to qualify as a solicitor, it is necessary, in the first place, to have served under a binding contract for a prescribed period with a practising solicitor ; secondly, to have passed the proper examinations ; thirdly, to have been duly admitted and enrolled ; and lastly, to have taken out a proper certificate to practise. As regards the first two of these qualifications, barristers of not less than five years' standing at the Bar are not required to enter into articles, but may be admitted after satisfying certain formalities and passing the final examination referred to in a later chapter. Certain Colonial solicitors who have been in practice for seven years, are entitled to admission in the English Courts without serving under articles or passing any examination whatsoever.

The first step, then, which the would-be solicitor must take is to enter into articles of clerkship, and before he can do this, he must give evidence of a satisfactory amount of general education by passing a Preliminary Examination. This examination is of an extremely simple character, and is probably the easiest of all professional entrance examinations. The student who wishes to qualify himself by passing it may obtain the regulations from the office of the Incorporated Law Society, Chancery Lane, London. These regulations are prepared five months previous to each examination. The subjects at present selected on which candidates are examined are :

1. Writing from dictation.
2. Writing a short English composition.
3. (a) The first four rules of Arithmetic, simple and compound ; the Rule of Three ; and Decimal and Vulgar Fractions ; (b) Algebra up to and inclusive of Simple Equations, and the first four books of Euclid.
4. Geography of Europe and History of England.
5. Latin—Elementary.
6. Any two languages to be selected by the candidate out of the following six, namely :
  - (1) Latin ; (2) Greek — Ancient ; (3) French ; (4) German ; (5) Spanish ; (6) Italian.

With reference to the subjects numbered 3 and 6, no candidate is obliged to take up Algebra and Euclid, but if any candidate elects to do so, he may take up these with *one* only of the languages. No books are specified for the language examinations. Passages from the standard authors are set for translation at sight with the assistance of a dictionary; and candidates are required to bring their own dictionaries. The student should therefore familiarise himself with the easy Latin authors, so as to be able to translate passages from them at sight. The Preliminary Examinations take place at the Hall of the Incorporated Law Society, Chancery Lane, and at several provincial towns, in the months of February, May, July, and October of each year. Each candidate is required to give *thirty days' notice* before the day appointed for the examination to the secretary of the Incorporated Law Society of his desire to be examined, stating the languages in which he proposes to be examined, the town at which he wishes to be examined, and his age, residence, and place or mode of education. Forms of notice can be procured from the secretary of the Incorporated Law Society. The fee on giving notice is £2. Should a candidate fail to pass, he must give a renewed notice fourteen days before the date of the examination. This notice will be in the ordinary form with the word "Renewed" written at the head of the notice. The fee payable with a renewed notice is £1. Some time

prior to the examination, the candidate will receive notice of the date of the examination, and where it is to be held. The examination itself extends over two days, and is at present conducted in the following order :

#### FIRST DAY.

|                            |   |                      |
|----------------------------|---|----------------------|
|                            | { | Dictation.           |
| <i>Morning</i> , 10 to 1.  |   | English Composition. |
|                            |   | Elementary Latin.    |
| <i>Afternoon</i> , 2 to 4. |   | Arithmetic.          |

#### SECOND DAY.

|                            |                        |
|----------------------------|------------------------|
| <i>Morning</i> , 10 to 2.  | Languages.             |
| <i>Afternoon</i> , 3 to 5. | History and Geography. |

No difficulty should be experienced on the examination day if the instructions given by the examiners are carefully followed. About three weeks after the examination, a list of candidates who have passed is exhibited in the Hall of the Incorporated Law Society, and each successful candidate obtains a certificate to that effect. In the event of failure a renewed notice should be given. The reader will find in Appendix A the questions asked at some of the recent examinations. There is no limit to the age at which the Preliminary Examination may

be passed, and immediately after passing the student may enter into articles of clerkship.

The Master of the Rolls has power to dispense with the Preliminary Examination where, under special circumstances, he thinks fit to do so. Formerly, dispensing orders were often made in favour of clerks who, by reason of having served ten years with a solicitor, were entitled to be articled for three years only; but latterly, owing to the practice which has been adopted by the Judges of forwarding nearly all applications for exemption to the Incorporated Law Society for consideration, and being in the majority of cases guided by the opinion of the Council, orders have only been made in very exceptional cases. The rule which the Council adopts in arriving at these recommendations, is that the Preliminary Examination can not be dispensed with, unless it be shown that the applicant has passed some examination fairly equivalent to it.

On applying for a dispensing order, the practice is to present a petition to the Master of the Rolls setting forth the circumstances of the case, signed by the petitioner, the solicitor to whom he is to be articled, and several men of known position recommending the case. This petition is then lodged at the Judge's chambers, and in a few days it may be ascertained whether the order has been granted; if it has, it will be drawn up by the Judge's clerk upon receipt of a five

shilling Judicature fee stamp. In drawing the petition the candidate may adopt any form which he pleases, no set form being prescribed.

Absolute exemption from the Preliminary Examination is granted to every person who has taken the degree (not honorary) of Bachelor of Arts or Bachelor of Laws at Oxford, Cambridge, Dublin, Durham, London, or Queen's University, Ireland, or the degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, or Doctor of Laws at any University in Scotland; or has been called to the degree of Utter Barrister in England, or has passed any one of the following examinations, viz., the First Public Examination before Moderators at Oxford; the Previous Examination at Cambridge; the Examination in Arts for the second year at Durham; the Local Examinations, Oxford (junior or senior); the Non-græmial Examinations, Cambridge (junior or senior); the Examination of the Oxford and Cambridge Schools Examination Board; the Matriculation Examination at Dublin or London (not necessarily in First Division); the Examination for First Class Certificate of the College of Preceptors; the Junior Student's General Examination, Owen's College, Manchester; the Legal Student's Higher Examination, Owen's College, Manchester; the Entrance Examination, Dublin University, having passed in Honours; the Moderations Examination at St. David's College, Lampeter; and the Preliminary Examination at Victoria University.

A few remarks may here be fitly made to guide the student in preparing himself for this examination, and first, as to what text-books should be read. On this subject there will necessarily be a diversity of opinion, and as no books are specified by the Law Society, it is impossible to lay down any fixed rules. The following will, it is thought, be found adequate for the purpose :

In English composition, *Doctor Abbott's "How to Write Clearly"*; in Arithmetic, *Brook-Smith's Arithmetic*, or *Longman's School Arithmetic*; in Algebra, *Todhunter's Algebra*, or *Hamblin Smith's Algebra*; in Euclid, *Todhunter's Euclid*; in Geography, *Cornwall's Geography*; in History, *The Student's Hume*, or *Collier's British History*; in Elementary Latin, *The Public School Latin Primer*; in Greek (ancient), *Goodwin's Greek Grammar*; in French, *Brachet's Historical French Grammar*, or *De Fivas' Grammaire des Grammaires*; in German, *Otto's German Conversation Grammar*; in Spanish, *Hossfeld's Spanish Grammar*; in Italian, *Sauer's Italian Conversation Grammar*. A number of books specially designed for the Preliminary Examination have lately been published by John Gibson, and may be obtained from Messrs. Cornish & Sons, the publishers. As to the time required, this will of course vary very much for different students; probably an average reading of five or six hours a day for three months will in most cases be sufficient. Still, in order to ensure success it is necessary that a diligent and steady course

of reading be conscientiously gone through by every candidate. In specifying these books, it is not intended to imply that they are the only available ones on the subject, and that others would not prove equally good and useful.

### CHAPTER III.

## Concerning Articles of Clerkship and Service thereunder.

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BEFORE entering upon the subject of this chapter, the question arises as to the best preliminary training for the profession, and the age at which it is desirable that service under articles should be commenced. With regard to the latter question, there is no age specified at which a clerk should enter into articles, but in order to render his service valid he must be of a proper age to study his profession, nor can he unless by special leave be admitted as a solicitor until he has attained twenty-one, notwithstanding that his articles may have expired before. No practical advantage is therefore gained by being articulated before the age of sixteen or seventeen, and this is the age at which the student usually com-

mences his clerkship. Before leaving this part of the subject, it may be well to consider briefly what are the advantages of a University education to a solicitor. It is believed that, in the majority of cases, the student is inadequately trained before he commences his career as an articled clerk, and when, at the age of twenty-one or twenty-two, he is prepared to be admitted within the pale of his profession, he is very likely, from the nature of his training, to have acquired a narrow and contracted type of mind unsuited to a member of one of the learned professions. No better corrective to the deficiencies of his legal training can be found than a University education, and it is believed that it is possible for him to obtain this without being seriously thrown back in his profession. If, therefore, he take a degree at one of the Universities before he is articled, and then enter into his articles at the age of twenty-one or twenty-two for the shortened period of three years which is allowed to the possessor of a degree, he will have acquired a broad as well as a technical education, and will, at the same time, be ready to be admitted as a solicitor before he attains the age of twenty-five. The disadvantage of being articled for a shorter period will, it is believed, be fully compensated for by the greater intelligence which he will naturally bring to bear upon his work, and he will not fall into the mistake, so common to articled clerks, of wasting the first year or two of his articles. Added to this advantage, there is no

reason why the University man should not lay there the foundation of a sound legal knowledge which will prove invaluable to him when he commences his career as an articled clerk. The student who adopts the course suggested here will find that he will have to modify many of the suggestions made in a subsequent part of this work so as to adapt them to his own case.

A few remarks may here be made on the considerations which should guide the student in the choice of an office. It will readily be seen that this is a matter of the highest importance, and will greatly affect his future chances of success. The very name of some firms is sufficient to ensure a fair income for their pupils as law clerks. On this point it is difficult to speak definitely, as in many cases the choice will be determined by circumstances singular to each case, and it would be impossible in a work like this to enter into these considerations. The first essential is that the student should choose an office where he is sure of finding plenty of work. As a rule, a solicitor with a small practice does not take articled clerks; still, it sometimes happens that the student finds himself in an office where there is not sufficient work to keep him fully employed. Then again, an office should be chosen where a good class of business is carried on, and where the student will have an opportunity of seeing every variety of practice. Another point, which should be considered, is

the character of the solicitor to whom the student is proposed to be articled. Some solicitors, unfortunately, take no trouble at all with their articled clerks, and consider that they have fully earned their premium when they have allowed them a seat in their office. Indeed, there are few solicitors who are willing to sacrifice their own time in order to personally instruct their articled clerks, and the utmost that any student can hope for is that every facility will be given him for learning his profession.

With regard to the premium which should be paid, it is impossible to lay down any rigid rules, the amount being entirely regulated by custom. The charge of many of the best firms for allowing an articled clerk in their office is £500, but there are a large number of very good firms which are willing to accept about half that sum; and it is, of course, within the power of any solicitor to permit a lad to be articled to him without any charge whatever. In many offices little or no assistance is given to the student, and it would be well that when a large premium is paid, some guarantee should be obtained that he will be properly looked after, and have every chance given him of learning his profession. It is not usual to make the premium repayable in the form of a salary by the principal to his clerk, but this can, if desired, be provided for by suitable clauses in the articles of clerkship.

No solicitor can have more than two clerks articled

to him at the same time, but, in the event of a partnership, each partner may take two articulated clerks, provided that there is a separate binding to each. If the clerk were bound generally to all the partners, he would then be considered the clerk of each, and no partner could have more than one other articulated clerk. It is further necessary that every solicitor taking an articulated clerk should be in actual practice, and should not during any portion of the term be a clerk to another solicitor.

In order to obtain admission to practise, it is essential that the student should serve under articles for a term of *five* years, unless he come under one of the exceptions enumerated below.

Graduates at Universities, barristers-at-law of less than five years' standing, and solicitors in the Supreme Court of Scotland, Writers to the Signet, or procurators in any of the Scottish Sheriff Courts, or members of the faculty of advocates there are excused two years, thereby reducing the period to *three* years. Persons who previously to entering into articles have served in a solicitor's office for ten years, may be admitted after three years' service. In these cases the clerk must satisfy the examiners as to a proper ten years' service. This is usually done by a certificate from his employer, but it may be proved in other ways. The ten years' service need not be continuous. Persons who have passed one of the following examinations may, on producing a certificate to that effect, have one year's service dis-

pensed with, viz., the First Public Examination before Moderators at Oxford; the Previous Examination at Cambridge; the Examination in Arts for the second year at Durham; the Entrance Examination at Dublin (having passed in Honours); the Matriculation Examination at London (having passed in the first division); the Legal Student's Higher Examination at Owen's College, Manchester; the Moderations Examination at St. David's College, Lampeter; the Preliminary Examination at Victoria University (having passed in the first division, provided that Latin be one of the subjects taken up). Any person articled for five years who subsequently passes one of these examinations, may with the consent of his principal have his term of service reduced one year. This consent should be evidenced by an endorsement on the articles.

Articles of Clerkship may be said to consist of three parts: first, the binding of the clerk; secondly, covenants by the clerk, or (if he is an infant), by his father or guardian, for the due performance of his service; and thirdly, covenants by the master. The form given below may be used as a guide in drawing Articles:

**Articles of Agreement** made the                      day of  
                   18    Between [*clerk*] of, etc., of the first part  
 [*father of clerk*] of, etc., of the second part and  
 [*Solicitor*] of, etc. gentleman (a Solicitor of the Supreme  
 Court who has been duly admitted) of the third part

**Witnesseth** that the said [*clerk*] of his own free will and with the consent of the said [*father*] hereby places and binds himself clerk to the said [*Solicitor*] to serve him from the day of the date hereof for the full term of            years And the said [*father*] hereby for himself and also on behalf of his said son covenants with the said [*Solicitor*] that he the said [*clerk*] will honestly and diligently serve the said [*Solicitor*] as his clerk in the practice or profession of a Solicitor during the said term of            years And that the said [*clerk*] will not at any time during such term cancel obliterate spoil destroy waste embezzle spend or make away with any of the books papers writings moneys stamps chattels or other property of the said [*Solicitor*] his executors administrators or assigns or of any firm of which the said [*Solicitor*] is or may be a member or of any of his or their clients or employers which shall be deposited in his or their hands or be entrusted to his or their custody or possession or which shall come or be entrusted to the care or possession of the said [*clerk*] And that in case the said [*clerk*] shall act contrary to the last-mentioned covenant or if he the said [*Solicitor*] his executors administrators or assigns or any such firm as aforesaid or any partner thereof shall sustain or suffer any loss damage or prejudice by the misbehaviour neglect or improper conduct of the said [*clerk*] the said [*father*] his executors or administrators will indemnify the said [*Solicitor*] his exe-

Clerk binds himself.  
 Covenants by father.  
 For service.  
 Not to injure property.  
 Make good any loss.

cutors and administrators and make good and refund to

Keep secrets. him or them the amount or value thereof And further that the said [*clerk*] will from time to time and at all times during the said term keep the secrets of the said [*Solicitor*] and any such firm as aforesaid and of every partner

Obey orders. therein And readily and cheerfully obey and execute his

Not absent himself. or their lawful and reasonable commands And will not depart or absent himself from the service or employ of the said [*Solicitor*] at any time during the said term without his consent first obtained but will from time to time and at all times during the said term conduct himself with all due diligence honesty and propriety

Covenants by Solicitor And the said [*Solicitor*] in consideration of the premises and also of the sum of £ by the said [*father*] to the said [*Solicitor*] paid at or before the execution of these presents (the receipt whereof the said [*Solicitor*] hereby acknowledges) covenants with the said [*father*] his executors and administrators that the said [*Solicitor*] will accept and take the said [*clerk*] as his clerk

To accept clerk.  
To teach. And also that the said [*Solicitor*] will by the best ways and means he may or can and to the utmost of his skill and knowledge teach and instruct or cause to be taught and instructed the said [*clerk*] in the said practice or profession of a Solicitor which he the said [*Solicitor*] now does or shall at any time hereafter during the said term use or practise And also will at the expiration of the said term use his best means and endeavours at the request costs and charges of the

Cause clerk to be admitted.

said [*clerk*] to cause and procure him the said [*clerk*] to be admitted a Solicitor of the said Supreme Court or any other Court of Law or Equity provided that the said [*clerk*] shall have honestly and diligently served his intended clerkship and passed the required examinations and duly qualified himself in all other respects to be admitted to practise as a Solicitor In witness whereof the said parties to these presents have hereunto set their hands and seals the day and year first above written.

The reader must be careful to observe that when it is intended that in case the clerk shall be prevented by death or other circumstances from serving his full term of years, a part of the premium shall be returned, an express stipulation to that effect must be inserted in the articles. This proviso may run in the following form :

Provided always and the said [*Solicitor*] covenants for himself his heirs executors and administrators with the said [*father*] his executors and administrators that in case the said [*Solicitor*] or the said [*clerk*] shall die within the first three years of the said term the said [*Solicitor*] his heirs executors or administrators will repay to the said [*father*] his executors or administrators such portion of the said sum of £            as is hereinafter mentioned that is to say if the decease of either of

Proviso for  
death of  
Solicitor.

them the said [*Solicitor*] or [*clerk*] shall happen before the expiration of the first year of the said term the sum of £        if such decease shall happen after the expiration of the first year and before the expiration of the second year of the said term the sum of £        and if such decease shall happen after the expiration of the second year and before the expiration of the third year of the said term the sum of £.

The articles are engrossed on paper, and it is not unusual to engross them in duplicate, so that one part may be retained by the clerk if he is of age, or if not, by his parent or guardian. The duty on original articles consists of a Government stamp of £80, which must be paid at Somerset House before execution, otherwise a penalty of £10 for each year or fractional part of a year during which the document remains unstamped is incurred, the penalty being limited to £50. It must be observed that the term of service runs from the execution, and not from the date of the service. Duplicate articles should bear a 5s. stamp. Where no duplicate of the articles is taken, the clerk should always obtain a fair copy for reference in case of dispute, as the original articles are always kept by the principal. All parties are required to execute in the presence of one witness, who will have to make a statutory declaration verifying the execution of the articles in the following form :

In the matter of \_\_\_\_\_ an articulated clerk  
I \_\_\_\_\_ do solemnly and sincerely declare as follows :

1st. I was present on the \_\_\_\_\_ day of \_\_\_\_\_  
One thousand eight hundred and \_\_\_\_\_ and did see  
each of the parties to the Articles of Clerkship now  
produced and shown to me marked “ \_\_\_\_\_ ” duly  
sign seal and as his act and deed deliver the said  
Articles of Clerkship and that the names or signatures  
(*here insert signatures as in the Articles of Clerkship*) set  
and subscribed thereto as of the parties executing the  
same are in the proper handwritings of the said  
and \_\_\_\_\_ and that the name or signature  
set and subscribed thereto as the party attesting the  
due execution thereof by the said \_\_\_\_\_ and  
is in my proper handwriting.

2nd. The said Articles bear date the                  day  
of                  One thousand eight hundred and  
and are made between\*

3rd. And I make this solemn Declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act, 1835.

\* Insert the names and addresses of the parties in the same order as in the articles, and describing the master as "Gentleman (a Solicitor of the Supreme Court who has been duly admitted)" whether so described in the articles or not. An address must be added in this declaration to each party's name, whether inserted in the articles or not.

The declaration must be stamped with a 2s. 6d. adhesive Judicature stamp.

Only one further step now remains to be taken, and that is, to leave the articles at the office of the Incorporated Law Society in Chancery Lane, within six months after the date thereof, for enrolment and registration. If this is not done within the prescribed period, articles may be subsequently produced and entered, but in that event the service will be reckoned to commence from the date of the production for entry, and not from the time of execution, unless the Master of the Rolls shall otherwise direct.

The student on attending at the office of the Incorporated Law Society must be prepared with four things: namely, (i) his articles of clerkship, (ii) his certificate of having passed a Preliminary Examination, or satisfactory evidence that he is not required to pass such examination, (iii) a statutory declaration verifying due execution of articles, and (iv) the Registrar's fee of 5s. Added to this, where the clerk has been articulated for a period short of five years it is necessary, with the one exception hereafter mentioned, to furnish the certificate or other evidence of having taken one of the degrees, or passed one of the examinations, upon which the right to serve for a lesser term is claimed. In the case of a person who has acted as a *bonâ fide* clerk to a solicitor for ten years, and has been articulated for three years only, no evidence of his having

duly served is required at this time, but on presenting himself for the Intermediate Examination he is obliged to satisfactorily answer certain questions, as mentioned in the following chapter.

At the expiration of a month from the time the articles are left, they will, on application, be returned, bearing an endorsement to the effect that they have been duly enrolled and registered pursuant to the statute. Where any delay arises in enrolment of the articles, application may be made to the Court by motion on affidavit, notice being given to the Incorporated Law Society, and, in a proper case, the Court will make orders for enrolment *nunc pro tunc*.

If it should happen that the original articles have been lost or destroyed, an application must be made to the Court for permission to enrol a verified copy immediately the loss is discovered. The Court has power to make this order upon being satisfied of the loss of the original articles, of the authenticity of the paper proposed for enrolment, and of the payment of the stamp duty; and further, that the clerk has duly served under such articles from the time of the execution thereof, or for such time as shall appear satisfactory to the Court. All such applications should be made by motion, notice of which must be given to the secretary of the Incorporated Law Society.

On the question of service under articles, a few points may be considered. And firstly, the clerk must

be actually and continuously employed. Absence for five months or more has been held to be a breach of continuous service. He is, as a general rule, restricted from holding any office or engaging in any other employment whatsoever during his term of service, the only exception being where he obtains his master's written consent thereto, and an order from a Judge giving his sanction. Before making any application for such order, notice in writing must be given to the Incorporated Law Society, stating the names and residences of the applicant and of the solicitor to whom he is bound, and the nature of the office or employment, and the time it is expected to occupy. If the order is made, the Judge may impose such terms and conditions as he thinks fit, and it then rests with the applicant before his admission to prove to the satisfaction of a Judge or the examiners that he has observed those conditions. Orders for this purpose are only granted when it can be shown that the other employment does not interfere with service under articles. Articled clerks bound for four or five years may, if articled in the country, serve one year with the solicitor's London agent, and in addition one year with a barrister or special pleader, either by virtue of any stipulation in their articles, or with the permission of their principal. Those bound for three years only are entitled to serve one year with a London agent, but are not allowed to serve any part of their term with a barrister or special pleader.

Articles of clerkship may be cancelled at any time by mutual consent of the parties. If for any reason during the continuance of articles it is thought desirable that the clerk should serve the unexpired portion of his term with another solicitor, further articles must in all cases be entered into, it being a settled rule that articles of clerkship are not assignable. With the addition of a short recital that the original contract has been put an end to by mutual consent, (or by the death of the master, or as the case may be,) subsequent or further articles may be in the same form as that already given. A stamp duty of 10s., which may be paid at any time within two months from execution, is chargeable thereon. If possible further articles should be signed by the first master to whom the clerk was articulated, who should be made a party thereto, and concurrently therewith the first master should also sign the requisite answers of due service, as in the event of his death or other subsequent inability so to do, service under him will have to be proved by statutory declaration. Further articles are in every respect to be treated as originals, and must be produced and registered with the Incorporated Law Society in the manner before described.

In the event of the death of the principal during articles, further articles must be entered into forthwith, and the term of service should be specially extended for a period corresponding with the interval from the day of

his death to the date of the further articles, as there can be no antedating of articles, neither can any service count except that performed under articles duly executed. The same course must be adopted where the master absconds or becomes insane, or for any other reason discontinues his practice. In these last three cases the Court will, as a general rule, interfere summarily, and order that a part of the premium be refunded to the clerk or his parents.

If the principal becomes a bankrupt the adjudication of bankruptcy shall, if either the bankrupt or the artickled clerk give notice in writing to the trustee to that effect, be a complete discharge of the articles, and if any premium was paid to the bankrupt, the trustee may, upon the application of the clerk or some person on his behalf, pay such sum out of the bankrupt's property as he thinks reasonable, subject to an appeal to the Court, regard being had to the amount of premium originally paid. Where it appears expedient to the trustee, he may, on the application of the artickled clerk or any person acting on his behalf, instead of acting as before mentioned transfer his articles to some other person.

## CHAPTER IV.

### The Qualifications for Admission.

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THE clerk having entered into articles, has yet to satisfy certain conditions before he is qualified to be admitted. He has, in the first place, to serve the required term; secondly, to pass the Intermediate Examination; thirdly, to pass the Final Examination; and, lastly, he must be at least twenty-one years of age. As regards service under articles enough has been said, and it is with the two examinations which the student must pass that this chapter deals. It will be left to a later chapter to consider briefly the more difficult Honours Examination which the student has the option of passing, and whereby he can obtain certain money prizes of considerable value.

In consequence of a recent Act of Parliament, which was passed with the object of inducing a larger number of

articled clerks to take advantage of a University education, the Incorporated Law Society has issued a rule exempting from the Intermediate Examination all articled clerks who before or subsequently to entering into articles have taken their B.C.L. or LL.B. degree at Oxford, Cambridge, London, Victoria, or Dublin Universities, or the B.C.L. degree at Durham University, or who prior to entering into articles have taken honours in the Final Honour School of Jurisprudence at Oxford, or in the Law Tripos at Cambridge. These are the only exemptions allowed.

The Intermediate Examination is an examination in elementary works on the laws of England, in order to ascertain the progress made by the student during articles. Before taking it he must have completed half his term of service, and he should present himself at some examination within six months from the expiration of his half term.

The Examination Committee publish not later than July in every year a list of the works on which they intend to examine at their various examinations for the ensuing year ; this may be obtained from the office of the Incorporated Law Society. It has been for many years past the custom to set the whole or part of *Stephen's Commentaries on the Laws of England*, and this (with the exception of Books IV. and VI.) twelfth edition is the work at present selected. Four examinations are held every year at the Hall of the Society, in the months of January, April, June, and November.

Every candidate is required to give, at least thirty days before the day appointed for the examination, a written notice of his desire to be examined, and to leave at the Incorporated Law Society's office his articles of clerkship and any further articles properly stamped and registered, together with his certificate of having passed the Preliminary Examination, (unless he has been exempted therefrom,) and answers to the prescribed questions as to due service and conduct up to that time. Prints of these questions, and also forms of notice, can be obtained on application at the Law Society's office. As was mentioned in a former chapter, there are certain additional questions which have to be answered by candidates who, having acted as clerks to solicitors for ten years, have been articted for three years only ; these questions relate to the ten years' service antecedent to the articles of clerkship. The fee on giving notice is £3. Should a candidate fail to pass or attend at the examination for which he has given notice, he may attend at any subsequent examination on giving a renewed notice fourteen days before such subsequent examination, and paying a fee of £1 10s.

The student will observe, therefore, that on giving notice he must be prepared with : (i) his articles of clerkship, and further articles, if any ; (ii) his certificate of passing the Preliminary Examination, or satisfactory evidence of his right to exemption therefrom ; (iii) questions as to service duly answered by his principal

and himself (with certain additional questions answered if he was articulated under the ten years' system); (iv) his examination fee of £3, or of £1 10s. if he has previously entered for the examination and been postponed.

The examination lasts for one day only, and is usually held on Thursday, though the dates vary slightly from year to year. The examination consists of three papers containing questions on the Commentaries, and classed under the various heads of :

1. Conveyancing. Rights of Property in Things Real. The portion of Book II. which is contained in Vol. I.
2. Personal Rights. Rights of Property in Things Personal. Rights in Private Relations. Book I., the remaining portion of Book II., and Book III.
3. The Study of the Law. Civil Injuries and their Remedies (being proceedings in all divisions of the Supreme Court). The Rise, Progress, and General Improvement of the Laws of England. Introduction, Book V., and Conclusion.

No official statement has ever been made as to what percentage of marks is required, but it has been asserted that in order to pass it is necessary to get half marks in each head. Such a standard seems rather high, and it is probable that if a candidate obtains half

marks in each head, and is only just below in the remaining one, he will succeed, but the author is not aware that there is any definite rule on the subject.

The result of the examination appears about three weeks afterwards in *The Times* newspaper, and candidates who satisfy the Committee as to their proficiency receive certificates. If any candidate fails to pass within twelve months after the date at which his half term of service expires, his Final Examination will be postponed for so long a period as may intervene between the expiration of the twelve months mentioned and the date at which he passes the examination, or for such shorter period as the Intermediate Examination Committee may, on the ground of illness or on other special grounds, direct.

The only text-book which it is necessary to read for the Intermediate is *Stephen's Commentaries on the Laws of England*, and an accurate knowledge of this is by itself quite sufficient to enable the reader to answer all the questions which have hitherto been set. Unless the student has some previous knowledge of the subject, he will find considerable advantage in obtaining a general view of constitutional history, before commencing to study the Commentaries, from such a book as *Fielden's Constitutional History* (Longman's). A very good analysis of the subject is published in *Gibson's Guide to Stephen's Commentaries*, and this will prove most useful just before the examination for purposes of revision. The Guide is not recommended as in any way

a substitute for the text-book set, but merely as a supplement to it.

It is hardly possible to lay down any fixed rules with regard to the number of hours to be devoted to reading every day, but it is probable that for a student of average abilities three months' reading of five or six hours a day will prove amply sufficient.

The Final Examination can not be passed until articles have expired or nearly so. The following table shows the earliest dates at which articulated clerks can take it, but it should be observed that these dates may vary slightly from year to year.

Where articles expire *between*

January 10 and April 15, candidates may be examined in January ;

April 14 and May 22, in April ;

May 21 and November 2, in June ;

November 1 and January 11, in November.

It is, however, optional to the student to apply at the periods mentioned, or to present himself for examination at any later time. No candidate can be examined under twenty-one without an order for that purpose ; and this is a matter for the consideration of the council or committee of the Law Society. In certain cases re-examination may be necessary where a solicitor, having ceased to practise for some time, applies to be admitted.

Full particulars relating to the Final Examinations

for the current year can be obtained from the office of the Incorporated Law Society.

The subjects at present selected are :

1. The Principles of the Law of Real and Personal Property, and the Practice of Conveyancing.

2. The Principles of Law and Procedure in matters usually determined or administered in the Chancery Division of the High Court of Justice.

3. The Principles of Law and Procedure in matters usually determined or administered in the Queen's Bench Division of the High Court of Justice.

The Law and Practice of Bankruptcy.

4. The Law and Practice of Probate, Divorce, and Admiralty.

Ecclesiastical and Criminal Law and Practice.

Proceedings before Justices of the Peace.

Four examinations are held every year, in the months of January, April, June, and November. Every candidate is required to give notice in writing forty-two days at least before examination, and if he fails to pass, he is entitled, on giving fourteen days' written notice, to present himself at any subsequent examination. On attending to give notice the student must be prepared with four things : namely, (i) his articles of clerkship, and further articles if any, (ii) his certificates of having passed the Preliminary and Intermediate Examinations, or satisfactory evidence that he is not required to pass such examinations, (iii) questions as to service duly

answered by him, and also by the solicitor or solicitor's London agent, barrister, or special pleader with whom he has served his clerkship or any part thereof, (iv) his examination fee of £5, or £2 10s. if he has previously entered for the examination and been postponed.

The examinations are at present conducted in the following order :

Tuesday.

*Morning*, 10 to 1.—(1) Conveyancing ;

*Afternoon*, 2 to 5.—(2) Equity.

Wednesday.

*Morning*, 10 to 1.—(3) Common Law and Bankruptcy ;

*Afternoon*, 2 to 5.—(4) Probate, Divorce, and Admiralty, Ecclesiastical and Criminal Law and Practice, and Proceedings before Justices of the Peace.

As a general rule, fifteen questions are set in each of the subjects numbered 1, 2, 3, and 4. In subject 3 eleven questions are set in Common Law and four in Bankruptcy, while in the last subject the questions are divided as follows : six in Probate and Divorce, three in Ecclesiastical and Admiralty, and six in Criminal Law and Proceedings before Justices of the Peace.

It is by no means necessary to take up all the subjects, and the student who intends to read for a pass only will be hardly wise to do so. All should take up papers 1, 2, and 3, and if a thorough knowledge of these

is shown the candidate will pass. In addition to these it would be well for the student to take some part of paper 4, as for instance, Criminal Law. The questions in this paper are of the simplest character, and with even the most elementary knowledge of the subject the student will gain some marks, all of which will count in the examination.

The result of the examination appears about three weeks afterwards in *The Times* newspaper, and successful candidates will be awarded certificates by the Law Society.

A practical work would hardly be complete if some effort were not made to assist the student in preparing himself for this examination. At the same time it would be both difficult and dangerous to lay down any rigid course of reading without knowing the abilities and disposition of each student. The course of reading recommended below will, it is believed, if conscientiously gone through, enable a student of average abilities to pass without difficulty. The reader must judge for himself as to how far it should be modified in his own or any other particular case.

In Common Law it may fairly be said that a knowledge either of *Indermaur's Principles of the Common Law*, or of *Smith's Manual of Common Law*, supplemented by *Indermaur's Leading Common Law Cases*, would enable any one to answer without difficulty most of the questions which have ever yet been set. The student

who wishes to go more deeply into the subject might with advantage read *Broom's Commentaries on the Common Law*. In spite of its bad arrangement *Snell's Principles of Equity* is by far the best general text-book on this subject.

The student who has but little time for preparation may substitute *Smith's Manual of Equity Jurisprudence*, or *Haynes' Outlines of Equity*, which are smaller and more compact than Snell's volume. *Indermaur's Leading Equity Cases* will be found a very useful addition to the above text-books.

With respect to Real and Personal Property the leading text-books are *Williams' Real Property*, and *Williams' Personal Property*, and both of these works are of very reasonable dimensions. Other works on the subject are *Goodeve's Modern Law of Real Property*, and the same author's *Law of Personal Property*. As regards Real Property, the student will find great advantage in obtaining a general view of the subject from *Raleigh's Outline of the Law of Property* prior to reading Williams' work. This admirable little book contains within the modest dimensions of 138 pages a complete review of the whole subject, and is written in a clear and attractive style admirably adapted for the student's purpose. This part of the examination also includes the practice of conveyancing, and some special text-book, as *Elphinstone's Introduction to Conveyancing*, should be read on this subject.

On the Law of Bankruptcy either *Baldwin's Bankruptcy* or *Ringwood's Bankruptcy* will be quite sufficient. A knowledge of *Harrison's Law of Probate and Divorce*, or of *Dixon's Probate* and *Dixon's Divorce*, will enable the candidate to answer all the questions which are likely to be set in these subjects. A fuller work on the practical part of the subject is *Browne & Powle's Law and Practice of Divorce*. Admiralty and Ecclesiastical Law are unimportant subjects, only two questions being set in the former and one in the latter. The student will find all he requires in *Eustace Smith's Admiralty Practice* and the same author's *Ecclesiastical Law*. In Criminal Law the student can hardly do better than read *Shirley's Sketch of Criminal Law*, or if he wishes to go into the subject in greater detail, the *Principles of the Criminal Law*, by *Harris & Tomlinson*. As questions are set on Magisterial practice some special book should be read on the subject, as *Shirley's Magisterial Law*, or *Stone's Justices of the Peace*, either of which will prove amply sufficient for the purpose. Finally, it will be found that great prominence is given at this examination to the subject of Procedure, and we should therefore recommend the student to read some such book as *Indermaur's Manual of Practice*; another equally useful book for the purpose is *Foulkes' Elementary View of the Proceedings in an Action*.

Taken as a whole, the above course of reading gives a good grounding in the elementary principles of the

English Law, and will, it is thought, enable the student to satisfy the examiners in most if not all of the questions which may be set. In conclusion it should be observed that it is rather a *thorough* knowledge of a limited extent than a wide general knowledge which is required for this examination.

As to the time required for preparation, it may be remarked that the longer a candidate has read steadily the better, but it is probable that six months' hard reading of six or seven hours a day will be found sufficient for any one of average abilities. The examination cannot well be considered a hard one, and ought not to necessitate assistance in preparation for it. A good coach may of course enable a student to acquire the requisite amount of knowledge in a shorter time than he could otherwise have done, and it is believed that the majority of students consider it advisable to obtain assistance in this way. We should strongly advise the student who finds any difficulty in his reading to go to some good law coach for the last three months preceding the examination.

Copies of the papers, set together with the answers to the various questions, are published immediately after each examination in *Law Notes*, and also in the *Law Students' Journal*, both being obtainable from the publishers of this work.

Although it is not necessary to pass in each paper, yet candidates are required to obtain an aggregate

minimum number of marks, and all marks obtained in every subject will count as a part of such minimum. No official statement has been made as to what the minimum is, but it cannot well be more than half marks on the entire examination. No particular number of marks is required in any one subject.

Those who pass receive respectively from the Council certificates to that effect, the possession of which is necessary before the student can obtain admission as a solicitor.

## CHAPTER V.

### Concerning Admission and the Certificate to Practise.

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WE have now to consider the third of those qualifications which were, in a former chapter, mentioned as being necessary in order to become a solicitor. Any person who has obtained a certificate of having passed the Final Examination, and whose articles have expired, provided he has also attained the age of twenty-one years, may apply to the Master of the Rolls to be admitted.

Before dealing with ordinary cases of admission, reference must be made to the case of barristers and Colonial attorneys mentioned in a former chapter.

An English barrister of not less than five years' standing, who has been disbarred, and has a certificate of fitness from two of the benchers of his Inn, may be admitted on passing the Final Examination, no service under articles being necessary.

Colonial attorneys who have practised for seven years in a Colony where service under articles for five years and examination before admission were necessary, may be admitted as solicitors of the Supreme Court, provided that the law of the Colony is similar to the law of England. All these facts must be fully set out in an affidavit. A Colonial attorney who has not complied with all these requisitions, and desires to be admitted, must make an affidavit that he is resident in the jurisdiction, and has not practised in any Colony for twelve months, and also pass the Final Examination. The admission form of a Colonial solicitor must, besides bearing the usual stamp of £25, be so stamped that with the stamps (if any) on his articles and admission in the Colony the total amount is £80.

Admission may take place at any time after passing the Final Examination. The first step which the applicant must take is to give written notice of his intention and desire to be admitted. This notice must be left at the office of the Law Society six weeks before the first day of the month in which he proposes to apply for admission. Candidates who wish to be admitted as soon as possible after the Final Examination should give this notice when they apply to be examined. The table below shows the last days when notice can be given :

|             |     |              |                |
|-------------|-----|--------------|----------------|
| For January | ... | on or before | 19th November. |
| „ February  | ... | „ „          | 20th December. |
| „ March     | ... | „ „          | 17th January.  |



One of these forms, according to circumstances, having been properly filled up, and signed, and left, the next step to take is to obtain a blank form of admission in the following words :

In the Supreme Court,

Forasmuch as upon examination and inquiry touching the fitness and capacity of                      to act as a Solicitor of the Supreme Court I am satisfied that the said                      is duly qualified to act as a Solicitor of the said Court I do by this writing under my hand admit him the said                      to be a Solicitor of the Supreme Court and direct his name to be entered on the Roll as a Solicitor of the said Court.

This must be filled up and impressed with the revenue stamp of £25. Forms of notice may be obtained of Messrs. E. Cox & Sons, and the admission certificate with the stamp impressed from the same firm or from Somerset House.

If, at the time of passing the Final Examination, the term of service has not expired, further testimonials from the principal will be required from the date of such examination to the expiration of the articles; and where the candidate was under twenty-one years of age at the time of passing the examination and has since attained that age, a letter from him to that effect will be required before he can be admitted.

In order to avoid delay the following documents should be left at the office of the Society one week before the expiration of the six weeks : (i) articles of clerkship and further articles, if any, (ii) Final Examination certificate, (iii) any further testimonials or letter required as above stated, (iv) admission certificate duly stamped, (v) Law Society's fee of £5.

Having arrived at this stage, the applicant should, as a matter of precaution, ascertain if his name duly appears in the list of applications, which are published monthly and exhibited three weeks before the first day of the month named for admission, in the Law Society's office and the Royal Courts of Justice.

At the expiration of the six weeks' notice the admission certificate will be sent to the Master of the Rolls for signature, and when signed the applicant's name will be entered on the roll of solicitors by the registrar. The admission certificate cannot be obtained for another period of six or eight weeks, when it must be applied for at the office of the Law Society.

A few incidental points in connection with this subject yet remain to be considered ; the notice of desire to be admitted can be given before the Final Examination has been passed, or the articles have expired, or the necessary age of twenty-one attained ; and if, when the appointed time for admission arrives, an applicant has not passed his examination, or his articles have not expired, or he has not attained twenty-

one, he cannot, of course, be admitted ; when the disqualification is removed, he can, by applying at the Law Society, get another day fixed for his admission. Again, there is no rule as to the time at which persons who are duly qualified must apply to be admitted.

It sometimes happens that the time for giving the six weeks' notice is allowed to slip by ; in these cases the Committee of the Law Society may, where it appears just so to do, dispense with such notice.

If for some unforeseen cause the candidate is not admitted during the month for which he applied, he can still be admitted in either of the two succeeding months, for a notice given, for example, for January, is by courtesy allowed to avail for that month, February, and March.

The profession of a solicitor being one of very great importance and trust, it is most essential that no one should be admitted unless he is morally fitted to enter the profession, and this point will be treated of here very briefly. It is competent for any person to object to any candidate for admission, and to give his reasons (for so doing), and the Master of the Rolls may, if cause be shown to his satisfaction, refuse admission to such candidate. A notice of objection to the admission of any applicant must be in writing, signed by the objector, and must be sent to the registrar together with an affidavit of the matters of fact relied on in support of the objection. Copies of the notice and affidavit must, at

the same time, be sent to the applicant for admission. The matter is then brought before the Master of the Rolls by the registrar, and the time appointed for hearing notified to the applicant and the objector. At the hearing of the case the parties may appear in person, or be represented by counsel or solicitor, and the Master of the Rolls, after hearing the case, will make such order as he thinks proper. An order refusing the admission is signed by the Master of the Rolls and filed with the registrar.

Any person who has been improperly admitted may be struck off the roll, and within twelve months of admission a solicitor may be struck off the roll for any defect in his articles, or in the registration of them, or in due service, or in his admission and enrolment.

The custody of the roll of solicitors is with the Incorporated Law Society, and the roll is during office hours open to inspection without fee.

A few words may be said as to readmission. Any person who has been struck off the roll on his own request may be readmitted, on consenting by affidavit to waive his privilege in any action which may be pending against him. The present rules as to readmission, and taking out and renewing certificates, may be found in the Supplement to the Calendar which is published by the authority of the Incorporated Law Society.

Notwithstanding that he has been admitted, no solicitor is entitled to practise until he has taken out his

I hereby declare that [name] was admitted a solicitor of the Supreme Court in the month of \_\_\_\_\_ in the year 18\_\_\_\_ and that my place of business is as follows

To the Registrar of Solicitors.

After the lapse of a week his certificate will be handed to him on payment of 5s. The certificate must then be left at Somerset House, together with one of the duplicate declarations, where it is stamped according to the solicitor's place of business as shown by the declaration. If the solicitor intends to practise within ten miles from the General Post Office, a stamp duty of £4 10s. has to be paid. But if his place of business is beyond such radius, he pays £3 only. At the determination of the first three years from the date of admission, these duties are respectively increased to £9 and £6. A London certificate entitles the holder to do work in the country as well. When the certificate is left to be stamped, the person leaving it is handed a certain form, which, if he fills up and returns to the officer, the solicitor's name will duly appear in the next year's "Law List." This list is *prima facie*

evidence whether any person is or is not entitled to practise.

The certificate to practise may be applied for either immediately after the applicant has been admitted, or at any time within twelve months. *If a longer period is allowed to elapse*, or if a solicitor neglect for a whole year to renew his certificate, it is within the discretion of the registrar to grant or refuse his application to do so, subject to an appeal to the Master of the Rolls. Six weeks' notice of the intention to make this application must be given to the registrar, unless such notice is dispensed with by him, or by the Master of the Rolls, and this notice must be supported by an affidavit, if necessary. An appeal to the Master of the Rolls from a refusal of the registrar to grant an application for renewal of an annual certificate must be made by petition, accompanied by an affidavit, in like manner as an application for readmission.

## CHAPTER VI.

### The Honours Examination, and an Account of the Prizes and Distinctions open to Students,

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THE last chapter concludes that part of the subject which deals with the minimum required from the articulated clerk. In this chapter will be briefly considered the voluntary examination for Honours, which, as has been already stated, the student may take in addition to the ordinary Pass Examination. In order to qualify for Honours, every candidate must have obtained a certain standard of proficiency at the Final Pass Examination, and unless this standard is reached, his Honours papers are not looked at. No official statement has ever been made as to what this standard is, but it is currently reputed to be a high one, probably about two-thirds on the entire examination. Formerly, candidates

over twenty-six years of age were not eligible for Honours, but this has been altered, and there is now no limit as to age.

Notice of intention to attend the Honours Examination must be given at the same time as the candidate gives notice for the Final Examination. The fee on giving notice is £1.

The subjects in which a candidate for Honours is examined are now identical with those for a Pass, but the questions set are very searching and difficult.

The examination is held at the Law Society's Hall on the Friday following the Final Examination.

In the morning, 10 to 1.30, there are two papers—viz. :

- (1) The Principles of the Law of Real and Personal Property, and Practice of Conveyancing.
- (2) The Principles of Law and Procedure in matters usually determined or administered in the Chancery Division of the High Court of Justice.

In the afternoon, 2.30 to 6, there are two papers—viz. :

- (3) The Principles of Law and Procedure in matters usually determined or administered in the Queen's Bench Division of the High Court of Justice, and the Law and Practice of Bankruptcy.
- (4) The Principles of Law and Procedure in

matters usually determined or administered in the Probate, Divorce, and Admiralty Division of the High Court of Justice, Ecclesiastical and Criminal Law and Practice, and Proceedings before Justices of the Peace.

There are nine questions in each paper, and one question in each is essentially practical, and on the results in these questions the John Mackrell Prize, referred to below, is awarded.

Only the marks obtained at the Honours Examination are considered, and successful candidates are placed in three classes :

The first class is arranged in the order of merit, and receive class certificates and prizes.

The second and third classes are awarded class certificates, and arranged in alphabetical order.

The names of all candidates who attain honorary distinction are printed in the Society's Calendar.

At each Honours Examination the following prizes are awarded, if the standard justifies the issue of a first class list of candidates : the Daniel Reardon Prize (value about £21), and the Clement's Inn Prize (value £10) to the first man ; the Clifford's Inn Prize (value £10 10s.), and the New Inn Prize (value £10 10s.), taken respectively by the second and third men. In addition the Law Society will give a prize of five guineas to every other candidate who obtains a first class certificate. The value of each prize will be expended in the

purchase of legal, historical, or constitutional works, to be selected by the prizemen, and bound and stamped with the arms of the Society at its expense, provided that the cost of each volume is not less than 10s.

The John Mackrell Prize is awarded to the candidate who shows himself best qualified to advise upon and transact matters of business which come within the province of a practising solicitor, as distinguished from the mere theoretical knowledge of principles of law. The value of the prize, (at present about £12,) is expended by the Society in the purchase of books in the same way as other prizes.

The following further prizes are both awarded once a year on the results of the Honours Examinations during the year, namely :

The Scott Scholarship, of the value of about £50, to the candidate best acquainted with the theory, principles, and practice of the law.

The Broderip Gold Medal, value about £10, to the candidate of not more than twenty-six years of age at the time of passing the examination, who shows himself best acquainted with the law of real property, and the practice of conveyancing.

In addition, there are certain prizes of a local character. They are :

Mr. Timpron-Martin's Gold Medal, which is awarded to Liverpool candidates who are not above twenty-five years of age at the time of passing their examination.

The medal is awarded after Michaelmas Term in each year to the candidate who has passed the best examination during the year, and obtained honorary distinction.

Mr. John Atkinson's Gold Medal, for Liverpool and Preston candidates who are not above twenty-five years of age. This medal is also awarded after Michaelmas Term in each year to the candidate who shows himself best acquainted with the law of real property and the practice of conveyancing, and has obtained honorary distinction.

The Birmingham Law Society's Gold Medal (value £10), for Birmingham candidates who are under twenty-six years of age. The medal is awarded after every Michaelmas Term to the candidate who has passed the best examination during the year, and who has been awarded a prize at the Honours Examination.

The Birmingham Law Society's Bronze Medal, for candidates who have passed two-thirds of their period of service under articles to a solicitor who is a member of the Birmingham Law Society, and are under twenty-six years of age, and have not taken the Society's gold medal. It is awarded to the candidate who has passed the best examination during the year, and has been placed in the first or second class at the Honours Examination.

The Stephen Heelis Prize, for Manchester and Salford candidates who are under twenty-six years of age. The medal is awarded after Michaelmas Term in

every year to the candidate who has passed the best examination during the year, and is entitled to a prize or a certificate of honorary distinction.

The Mellersh Prize, open to candidates who have been articled in the counties of Surrey or Sussex, or who are the sons of solicitors who have resided or practised in either of those counties. It is awarded to the candidate who shows himself best acquainted with the law of real property and the practice of conveyancing. The prize consists of books.

Full particulars as to all these prizes can be obtained from the office of the Incorporated Law Society. Some of the District Law Societies and Law Students' Societies also occasionally award distinction to local candidates.

The Honours Examination is probably one of the most difficult law examinations of the present time, and involves a large amount of reading which will be of little direct value to the student in his after career. It may with some justice be said that a candidate who wishes to pass cannot read too widely, or too deeply. The standard which is required for Honours is probably a very high one, and it not unfrequently happens that no candidate qualifies for a first class. In order to achieve success the student must be thorough in his work. There should be no waste of time over unimportant matters, and what is read should be read carefully and grasped thoroughly. In addition to this, the student must have an intimate knowledge of the

more noteworthy recent cases and statutes. It is quite certain that several of the questions will bear directly upon points which have, within a year or two, been the subject of judicial decision. A careful perusal of former papers will show the importance of this observation.

It is not an easy matter to recommend any special books for reading, but, it is thought the following books, in addition to those already suggested for the Pass Examination, will prove useful.

(i.) In Common Law, instead of the course recommended for the Pass Examination, the candidate for Honours should read in greater detail some of the more important subjects comprised in this branch of law. In the first place, it is absolutely necessary to read some work which deals with the general principles of the Law of Contract. For this purpose, *Anson's Principles of the English Law of Contract* is by far the best, and as an elementary treatise it cannot easily be excelled.

On the important subject of Torts there are several very good books. Probably *Pollock's Law of Torts* will be found the best, although it is the largest of the smaller works on the subject. *Fraser's Compendium of the Law of Torts* may be referred to as furnishing a convenient summary of the subject.

An indispensable addition to the student's reading for this part of the examination is *Shirley's Leading Cases in Common Law*. The value of this work

to the student can hardly be over-estimated. It is written in a bright and attractive style, which greatly assists in fixing the facts upon the mind of the student. As it covers the whole field of Common Law, with the exception of Criminal Law, it may advantageously be read in conjunction with Anson and Pollock, and will be found a really admirable addition to those text-books.

(ii.) On Equity. In addition to *Snell's Equity* (of which a useful analysis has been published by Blyth), students will find *Brett's Leading Cases in Equity* a very useful *auxilium* to their studies, and should obtain therefrom an excellent knowledge of the principles of Equity.

(iii.) On Real and Personal Property. *Challis' Law of Real Property* or *Goodeve's Modern Law of Real Property* should be substituted for Williams' work. As regards personal property, the most suitable book is *Goodeve's Law of Personal Property*. A good plan is to make Williams' works the basis of study in these subjects, and to read the other books which are suggested by way of revision. The student should also consult *White & Tudor's Leading Cases* upon the more important branches of Conveyancing and Equity. In addition to this the student should also possess some copy of recent important statutes, and he will find *Gibson & Weldon's Students' Statutes* very useful.

As regards the other subjects, it is believed that no

reading in addition to the works already recommended is required. In conclusion we should strongly advise the student who has the necessary amount of time at his disposal to sit for Honours, as there is no doubt that the *κυδος* conferred upon a solicitor by high Honours is often of real practical use.

Before closing this chapter, reference must be made to the *McMahon Law Scholarships*. These scholarships were founded at St. John's College, Cambridge, in the year 1864, by Thomas Bros, Esq., of Lincoln's Inn, barrister-at-law, the executor of James McMahon, Esq., of the Inner Temple, barrister-at-law. One scholarship is vacant each year. It produces £150, and is tenable for four years. The scholarships are open to any student of St. John's College, Cambridge, who has taken his B.A. or LL.B. degree, and is not of sufficient standing to be admitted to the degree of M.A. or LL.D., and who *bonâ fide* intends to prepare himself for the practice of the law, either as a barrister or a solicitor. Every law student who, at the time of his election to one of the scholarships, is not a member of one of the Inns of Court or articled to a solicitor, must, within three months from the date of his election, enter himself as a student of an Inn of Court or article himself to a solicitor, otherwise he forfeits the scholarship.

## CHAPTER VII.

### The Study of the Law.

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A SOLICITOR, in the exercise of his profession, is frequently entrusted with affairs of very great responsibility, and may at any time be called upon to advise not only on questions of law, but on matters of policy and discretion, which may sensibly affect the reputation and character of his clients.

In order to fit him for these duties a thorough knowledge of the theory and practice of the law is essential, but much else is required, and he who would succeed cannot begin too early to adopt every opportunity of observing life and character. A recent speaker at one of the meetings of the Incorporated Law Society said, that in addition to a proper legal education, he attached great importance to "that kind of culture which gave a man an

insight into the ways of mankind, which was as valuable to a young practitioner as an acquaintance with the technicalities of law." The articled clerk should never forget that the object of his student's career is to become a successful solicitor, and that the mere routine of office work will do but little to enable him to reach the goal of his ambition.

In order that the student may form an accurate conception of the general scope of a solicitor's business, it has been thought expedient to quote here the vivid picture of a leading solicitor's daily practice, which is given by the author of a little pamphlet, entitled, "Essay in Vindication of the Solicitors." The pamphlet itself may be seen at the library of the Incorporated Law Society, and will well repay the time given to its perusal.

"A great solicitor's office is divided into departments, according to the several branches of business usually transacted in it. These may be, one for Common Law, another for Chancery and Bankruptcy, and a third for Conveyancing and miscellaneous matters. In some, there may also be a department for Parliamentary business. In firms consisting of several partners, it is usual for each partner more immediately to superintend some one department. In each department it may be necessary, if the business be very extensive, to have a clerk well versed in the technical part of it, capable of transacting the outdoor business and superintending the mere operative clerks. There are also articled clerks,

who are young men of respectability and education, and who have the general scope of the office for the purpose of gaining the requisite knowledge to practise hereafter for themselves. The business of a solicitor consists in conferring with the clients who call upon him, like patients on a physician, for advice in all their various difficulties and embarrassments, as well respecting matters of prudence and expediency as matters of mere law. He is therefore obliged to have some acquaintance with the law in general, and a quickness in applying its rules to particular cases. He must also have a large stock of general information and a knowledge of the world, in order to understand the nature of the cases on which he is called upon without premeditation to advise. He should possess a talent most difficult to acquire—namely, that of divesting the law of its technical language, and conveying its importance to ordinary capacities. He must exercise great patience in listening to tedious narratives, and considerable tact in eliciting all necessary information, and discriminating between that and the irrelevant matter with which a talkative client incumbers his story.

“After having conferred and advised with his client, he shapes his conduct according to the nature of the case in which he is concerned. Perhaps he has to negotiate some delicate affair involving the honour and character of his client, perhaps to effect a compromise

which may prevent the client from being drawn into the vortex of litigation. In the management of such cases he requires no little address, as well as some proficiency in the arts of conciliation and persuasion. He is liable, at all times, to be called away from his office to attend the dying who have deferred making their wills till the last hour. He has to attend some clients abroad, and to keep appointments for transacting business in different parts of the town, and sometimes his attendance is required at sessions and assizes in the country.

“If his instructions should be to prepare a deed, and if it should be one of a very common description, he writes ample directions, and gives them to his conveyancing clerk to prepare the draft, conformably to some precedent which he may name; when it is so drawn, he gives it to be engrossed. If it should be a more special deed he draws it himself, and perhaps for the better security of his client, and through distrust of himself in a difficult branch of the law, he may lay it before a conveyancer to be perused and settled. In cases of extreme nicety he enlarges upon his written directions, and attends the conveyancer upon them for him to prepare the draft of the requisite deed. A similar course is pursued with respect to the preparation of pleadings in actions and suits, upon which he applies to counsel, in the same manner as to the conveyancer (who, by-the-by, is generally a gentleman at the bar), but it is obvious, that, in cases where they receive instructions to

draw pleadings, they must be supplied with a full and careful statement of all the facts, so that the business of the pleader will consist in moulding the materials supplied by the solicitor into the subtle forms of pleading. The latter would be highly censurable for presumption and incaution, if, on points of such nicety, he neglected to obtain for his client the assistance of those who have made the art of pleading their exclusive study.

“In the progress of a suit, he has to watch the time for further proceedings, to instruct his clerks to transact the merely mechanical routine of the public offices, and to give his personal attendance at them, on those occasions which require the exercise of intellect ; but, as it must often happen in an extensive practice that several causes are proceeding at the same time, and require attendance at different places, he must retain in his employ one or more superior clerks capable of transacting business of this nature. There is a very useful and intellectual class of men who take their designation from the department with which they are conversant, as Chancery clerks, Common Law clerks, etc., some of whom have in their time handed briefs to Dallas and Erskine, and listened to the decisions of Kenyon and Loughborough, and who are fully competent to the task.

“In the maturer stages of a cause, the solicitor has to collect evidence, to examine witnesses, to take their depositions, to prepare not only mere briefs of the

pleadings, but also instructions for the conduct, and materials for the speech of his counsel at the trial or hearing, and he has to attend consultations with counsel frequently at a late hour of the night. On the day of trial he has to attend the court to conduct his witnesses and keep them in readiness. He has to give information to the counsel on many points which unexpectedly arise in the progress of the trial, to suggest questions to be put to the witnesses, and, in short, to exert all his faculties to secure success, and the more, that in case of failure, he alone must stand the brunt of his client's discontent, and the risk of losing his costs."

Although the account given above of the duties of a solicitor was written a considerable number of years ago, it remains substantially correct at the present time.

A practical work would not be complete if some attempt were not made to advise the student how he can best obtain that proficiency in his profession, which shall ensure, as far as possible, his ultimate success ; it is hoped that he will find the following suggestions of practical benefit in relation to his conduct as an articled clerk.

There are various means of instruction which are open to the student, and it is proposed to deal with these in the following order :

(1.) Observation and practical work in his principal's office.

(2.) Reading.

(3.) Public lectures and classes.

(4.) Law students' societies.

(5.) Private instruction.

The student should always remember that he is sent at very considerable cost into a solicitor's office, to learn a profession so difficult that none can hope to excel in it, without giving to its study many years of the closest attention. It is admitted by all, that the knowledge and experience necessary to enable a solicitor to deal successfully with even the simplest cases cannot be acquired by private study. It is therefore of the highest importance that the articled clerk should see for himself how practice is carried on, both in its general idea and in its detail, and for this purpose he should begin at the lowest step of the ladder, and not think any detail too trivial to be attended to. Very much will depend upon the commencement of his period of service under articles. It is trite learning that the habit of work, if not acquired at first, becomes more difficult as time goes on. Then again, the clerk will find that the solicitor to whom he is articled will not consider it his duty to exercise the office of schoolmaster, and his own sense of duty will be the principal factor in determining the question whether he works, or shirks his work.

To get the greatest advantage out of his period of articles, the student should not stand on his dignity as to the class of work which he undertakes; for, in order to properly act in the highest points of practice, it is necessary to be well grounded in the lowest. Let him do

whatever is given him carefully and thoroughly. Much of his early work will be simple copying, and this should be done well and neatly. It is open to every one to perfect himself in writing a good legible hand. Unfortunately this is too often overlooked by articled clerks, many of whom affect a slovenly scrawl.

It is hardly necessary to point out that regularity of hours is essential, alike for the student's own success, and to convince others that he is in earnest. Let him therefore observe regular office hours, and not consider himself privileged, because not paid for his services, to come into the office an hour after the other clerks. The student's time during articles is his master's, and it should be a matter of conscience and duty with him, to work as steadily in his master's absence as if he were present.

Lastly, it is most important that the student should strive to take an interest in the office and whatever is going on in it, so as to be better able to comprehend the orders and instructions given to him, and he will be repaid in the confidence his master will learn to repose in him.

The question is often asked, as to how far service under articles should be supplemented by private reading. It is quite evident that no man can become a good lawyer without a fair amount of legal reading, and next to actual practice, reading the theory of the law constitutes the most important element in an articled clerk's legal

training ; the other means of acquiring proficiency in his profession are merely auxiliary to these. The student who is really interested in his future profession will find that office hours can be spent far more profitably than in reading text or other law books, and he should, therefore, do all his reading when the work of the office is finished.

Up to the time of passing his Intermediate Examination the student's course is marked out by the examiners, and it will not be prudent for him to go very much beyond the works specified by them. Afterwards, he should widen his course of reading, and for this purpose the following books are specified as being able ones of their kind, and at the same time very clear. In order to gain a general acquaintance with the principles and practice of Conveyancing, he should read the dissertations in *Prideaux's Conveyancing*, together with *Comyns' Abstract of Title*. *Elphinstone's Introduction to Conveyancing* may be substituted for *Prideaux*, and the student ought also to read some books on the more practical part of the subject, as *Clark's Students' Precedents in Conveyancing*, *Elphinstone & Clark's Searches*, and *Wolstenholme's Conveyancing and Settled Land Acts*. To gain some knowledge of the ordinary steps and procedure in actions in the Chancery and Common Law divisions, the Judicature Acts and Rules, and *Underhill's Manual of Chancery Procedure* should be read. If possible, the student ought also to read *Tudor's Leading Cases in*

*Conveyancing, White & Tudor's Leading Cases in Equity, and Smith's Leading Cases in Common Law.* As the time for the Final Examination approaches, the student should gradually condense what he has previously read by limiting the area of his reading. The course of reading necessary for this examination has been indicated in another chapter.

The next means of education which has been mentioned as open to the law student consists of public lectures and classes. In London, excellent lectures were formerly provided by the Incorporated Law Society, with the object of assisting the student in his preparation for their examinations, but it is believed that these lectures were never very largely attended, and they have since been discontinued. Of late years the Council of Legal Education has been attempting to bring into more prominence its system of lectures and classes, and a scheme has been proposed for throwing open its lectures to all law students, instead of limiting them as formerly to gentlemen who are reading for the bar. It is believed that this scheme is now under the consideration of the Inns of Court, as their sanction is necessary before it can be carried into effect. The Council furnishes a complete course of legal instruction through its Readers and Assistant Readers, and the student can obtain from the secretary to the Council at Lincoln's Inn the current syllabus of lectures. Should these lectures be eventually thrown open to all law students, it is believed that articulated

clerks who are living in London would be well advised in attending them, but it is obvious that every student must judge for himself as to how far attendance at lectures is useful. It is probable that candidates for Honours would gain more advantage by so doing than other candidates. The disadvantage of lectures is the impossibility of making them suit all hearers, and generally an able man will read and learn far more in an hour by himself than in the same time spent in a lecture room.

Before leaving this part of the subject, it may be mentioned that the Incorporated Law Society has adopted a scheme for affording assistance to articled clerks in their studies by means of a system of classes, particulars of which will be found in Appendix G. These classes are held during certain afternoons in each week at the Hall of the Society, and are presided over by competent tutors who supervise the studies of their pupils, and hold periodical test examinations. The Society also provides postal instruction, both for London and country students, by means of monthly letters containing suggestions as to their general course of reading and test questions. The classes are adapted to the requirements of the student both before and after he has passed his Intermediate Examination, and will no doubt prove of great value to him.

Law Students' Societies constitute a useful means of education for articled clerks, and not one of the least advantages to be gained from membership in one of

these societies is the spirit of emulation which it excites. It is not merely that the student here finds his own level, and in doing so loses some of his self-conceit, but he will have his wits sharpened by the intellectual conflicts in which he will be engaged, and will be urged to greater diligence by finding how much less he knows than others of the same standing as himself. In addition he will there learn self-reliance, and will acquire from the interchange of ideas a confidence in his own powers, and a readiness in giving out his own knowledge, which are most important elements in professional success. Here, too, the student will probably make friendships with his fellow-students which will last through life, and be of the utmost service in his professional career. Then again there are so many openings for the solicitor who has a taste for advocacy, that it is advisable that every solicitor should be a good speaker. Unfortunately there is no school of rhetoric, or school of advocacy in London, but the art of speaking may be successfully cultivated by constant attendance at a debating society. These societies now exist very extensively throughout the kingdom, and every law student who has the opportunity of joining one should do so.

In London, there are several good debating societies. The Law Students' Debating Society meets every Tuesday during the greater part of the year at the building of the Incorporated Law Society, in Chancery Lane. It discusses legal and general questions, and is open to

members of both branches of the profession, bar students and articled clerks. Another similar society is the United Law Students' Society, which is also open to all law students. The student who joins one of these societies should be careful to use it to the best advantage, looking up the question for discussion at debates with care, and speaking as often as he can. In order to derive the greatest possible benefit from these debates, he should discuss the points in question with as much earnestness as if they were real actual cases in which he was concerned, and by doing so considerable legal knowledge must be acquired.

On the question of private instruction it is quite impossible to lay down any general rules. In some cases, where the student has neglected to take full advantage of the direct means of education which have been suggested, it will be found well-nigh essential, and it is believed that, as a general rule, coaching is likely to be of greater practical assistance to the student, than attendance at lectures and classes.

## CHAPTER VIII.

### Miscellaneous Points connected with the Legal Training of a Solicitor.

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THE chief features of a solicitor's training have now been discussed, and in this chapter it only remains to deal with a few miscellaneous matters which seem to call for notice. And, in the first place, it will not be superfluous to point out the peculiar advantages which will accrue to the student from a Law Degree at the University of London, referred to in a former chapter, and to suggest to the student how that degree can best be taken in combination with his ordinary office duties.

Undoubtedly the London Law Degree takes very high rank amongst the law degrees conferred by the various Universities of this country. The possession of the legal diploma cannot therefore fail to confer a large amount of

prestige upon its recipient, being a guarantee that he has undergone a sound course of reading, embracing such widely different subjects as Jurisprudence and Roman Law on the one hand, and upon the other practically the whole sphere of English Law. It is impossible to believe that a client would not feel more confidence in placing his business into the hands of a young solicitor who had shown that he was possessed of talent and determination by distinctions gained in his student days. Again, to those who cannot afford the expense or the time for a college career, a good degree is often invaluable. In the next place, the London degree may be obtained without the necessity of residence, and by work which can be done by the articled clerk concurrently with his ordinary office duties. The London list of legal graduates already includes the names of many famous solicitors, Queen's Counsel, and at least one Lord Chancellor, and is yearly being added to, as the peculiar advantages which have been pointed out are becoming more generally known.

The chief difficulty to the student is, that the course of reading for the Intermediate Examination in Laws must be altogether independent of the course of study required for the Intermediate Examination of the Incorporated Law Society; however, this slight disadvantage is readily compensated for in the fact that the curriculum of the Final Examination corresponds almost exactly with the Final LL.B., as in most respects the

subjects at both these examinations run on pretty much the same lines, and cover the same ground. It will not be irrelevant to remark here that matriculation is the wicket-gate to all the degrees of the University, and that the student cannot present himself for the Intermediate Law Examination within eleven months from the time of his matriculating. It is obvious therefore that the matriculation, which includes such subjects as Chemistry and Natural Philosophy, should be passed directly from school, and it will then serve the additional purpose of exempting the student from the Preliminary Examination, referred to in a former chapter. To sum up, it should be, in every case, the aim of the student to obtain his degree before being finally admitted within the pale of his profession.

The subjects of the Intermediate LL.B. include Jurisprudence, Roman Law, and English Constitutional Law and History, and certain books are definitely prescribed in the regulations. These books should, if possible, be read, but as regards Jurisprudence, many candidates prefer to read Mr. Robert Campbell's small edition of Austin, to the larger text book which is set. The Final Examination includes Common Law, Equity, Real and Personal Property Law, and Roman Law. Of these, the first is the widest ; it includes Contracts, Torts, Evidence, Criminal Law, and a fair amount of Procedure. Very considerable importance, too, is attached to the "Special Subjects" in Common Law

and Equity, set from year to year, and in fact, most of the questions relate specifically to these. On the question of text books, a better selection, on the whole, cannot be made than the list given for the Honours Examination in a former chapter, and to this the reader will do well to refer. It should, however, be noticed that as might be expected, greater prominence is given to Procedure in the examinations of the Incorporated Law Society than in the University examinations. The Roman Law includes a Title from the Digest, and the History of Roman Law to the time of Justinian. *Muirhead's History of the Roman Law* is undoubtedly the best work on the latter subject.

A word in conclusion as to the facilities for instruction which are open to candidates. There are capital lectures every session in Jurisprudence, Roman Law, and Constitutional Law at University College. There are also lectures at King's College. Reference may also be made to the University Correspondence College, which prepares candidates by correspondence for all the examinations of the University of London.

A few suggestions may here be fitly made to guide those whose student life is closing, and who are at the threshold of their professional career. The first point, which must be decided by the young practitioner, is whether he will commence to practise on his own account at once, or previously take a managing clerkship for a time. This question depends upon so many

circumstances that it cannot be answered with any certainty. If the young solicitor has a practice to succeed to, or a share in one can be purchased for him, he will have no object in taking a clerkship; but if he has to fight his own unaided way, and is still in early youth, much advantage will be gained in the way of experience by taking a managing clerkship if he can get one. A young man of one or two-and-twenty, just out of his articles, knows little of the practical management of a solicitor's office, and such knowledge can only be acquired by having actually to *do* the work which calls for its exercise, and as in the majority of cases work comes slowly to the newly admitted solicitor, it will be long before he acquires a thorough knowledge of practice as well as theory. A managing clerk, on the contrary, has the advantage of seeing and conducting at once a great variety of business, and thereby, he acquires a confidence in his own judgment, and power of imparting that confidence to others, both of which qualities are most important aids to success in his profession.

Another advantage to be gained from this course will be that he will become known, both to the public, and to the seniors in his profession. The latter will be found no small advantage, and will probably enable him to gain a practice when he does commence on his own account, in a smaller time than he would otherwise be able to do.

Finally, in spite of the somewhat sudden transition

from the easy independence of the articulated clerk, he will find the discipline to which he will be subjected wholesome, begetting habits of regularity and method, and a power for sustained work, which will be invaluable to him in after life.

And now that the education, both practical and theoretical, of the solicitor has been discussed, it may not be unadvisable here, to add a few observations on those which the author conceives to be some of the main conditions of professional success.

The first grand essential is a thorough acquaintance with the theory and practice of the law. It must, however, always be remembered that, from the infinite multiplicity of our laws and their total want of arrangement, it is quite impossible to know the whole of them, and even to obtain a thorough knowledge of any one branch must, in the words of an old writer, be "the business of a laborious life." A solicitor, therefore, must have a many-sided knowledge, and cannot confine himself to one particular branch of the law; indeed, it has been well said that the art of a good lawyer consists rather in knowing where to look for authorities when any difficult case arises, than in trying to recollect the exact law on the subject. Shrewd men of business will be quick to note if the young practitioner is able to properly understand the bearings of a subject, and at once to practically advise them upon it. Then again, it is perhaps even more essential for a solicitor to have

an enlarged acquaintance with all the various details of business life. In addition to the power of being able to advise a client rightly as to the law in his particular case, it is no less important for the client, that he should be able to advise him as to the course which, under the circumstances, will be most likely to be beneficial. To do this successfully, the solicitor will frequently have to use much business tact in dealing with his client.

Another essential, which has been referred to before, is the power of close and sustained application to work. A modern writer has said, that "persistence in purpose, with versatility in means, form the happy combination that augurs success," and this applies to law as well as to other professions. A third requisite is close attendance at office. No more certain road to failure can be found, than for the young solicitor to be always away from his post. One of the main inducements to the client to employ a young solicitor is that he is more likely to be seen at a moment's notice, than one who already has a large practice. Again, he must be always on the alert to seize every opportunity which may occur, and must strike the happy mean, between too much self-assertion, and a diffidence which may cause the chance to be lost.

*Lastly*, let him do nothing in his professional career which can be called sharp practice. A solicitor, as a member of a learned profession, should be a gentleman

of scrupulous honour and integrity. The law is a great and noble study, "transcending that of any earthly thing," but too often in practice, it is made an instrument of oppression and wrong. Lord Bacon describes some solicitors of his day, as "persons that are full of nimble and sinister tricks and shifts, whereby they pervert the plain and direct courses of courts, and bring justice into oblique lines and labyrinths." There are many solicitors at the present day who unhappily answer to this description and poison the "pure fountain of justice," and it is this class of men which has brought an honourable profession into discredit.

## CHAPTER IX.

### The Articled Clerk in the Law Courts.

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“THE law,” says Lord Bacon, “has much respect for the certainty of judgments, and the credit and authority of judges.” In this chapter, the principal legal decisions affecting articulated clerks have been given, and these should be studied by the student in order that he may not be in ignorance of the various legal consequences which attach to his position. For easy reference, the cases have been grouped under various heads, and it is believed, that the student will find that the various decisions are given accurately and clearly.

I. As to stamping the articles.

NOTE.—For the references to the cases quoted in this chapter, the reader is referred to the table of cases, p. ix.

It is necessary to stamp articles of clerkship before execution, as otherwise, they are liable to the payment of the penalty mentioned in a former chapter.

In *Ex parte Williams* it was held to be the duty of the master to refuse to enrol articles of clerkship unless they were properly stamped when produced to him. This case has never been questioned.

## II. As to registering the articles.

Formerly, articles of clerkship had to be enrolled within six months from execution, and if this was omitted to be done, the period of service was reckoned to commence from the date of enrolment. It is now provided by a recent Act of Parliament, that articles must be registered within six months from the date thereof, and if this is not done they may be subsequently produced and entered, but the period of service will in that case be reckoned to commence from the date of the production for entry, unless the Master of the Rolls directs otherwise.

The following cases, which were decided under the old law, are useful as they bear upon the question of stamping. It will be observed that the reason given in every case for not enrolling the articles within the proper time, was that they had not been stamped within the period allowed for that purpose. The principles which guided the Court in coming to a decision in the various cases in which an application was made for an order allowing service to count from the date of the execution

of the articles, though not enrolled within the time allowed, appear to be as follows :

*First.* In cases where the delay in stamping the articles arose from some accidental cause or neglect which is satisfactorily explained ; or, where the person articted had a right to expect when he entered into articles that the stamp duty had been paid, or would be forthcoming in due time, and its non-payment arose from some unforeseen circumstances, or unexpected emergency ; or, where there has been a mistake in the matter, for which the articted clerk was not to blame, the Court will allow the articles to be enrolled upon payment of the prescribed penalty, and will allow service to count from the date of execution.

Acting on these principles, the Court allowed the articles to be enrolled, and service to be reckoned from the date of execution, in the following cases :

*Ex parte Bishop.* The articles were not stamped within six months from the date of execution, but had been subsequently stamped, and the clerk had served under them from the date thereof. It appeared that the non-payment of the stamp duty arose from some unforeseen emergency. The case was followed in *Ex parte Herbert*, where the facts were similar.

In *Ex parte Breden* the facts were as follows : In consideration of his previous services as managing clerk, B. was articted on the 11th June, 1888, to his late master's son, who promised that the articles should be

duly stamped and enrolled, the widow promising before the execution to pay the stamp duty. After six months had gone by, B. discovered that the duty had not been paid, and that consequently the articles had not been enrolled. He continued to serve under the articles, and in January, 1892, petitioned the Lords of the Treasury, who permitted the articles to be stamped on payment of a penalty. The articles were subsequently enrolled, and the Court was asked that service might count from the date of execution. This case was followed in *Ex parte Darville*, where the facts were similar.

In *Ex parte Blade*. In this case, the applicant had entered into articles of clerkship at the instigation of his brother-in-law, who promised to pay the stamp duty, and as he subsequently failed to do so, the articles were not stamped and enrolled within the proper time. This case was followed in *Ex parte Sayer*, where the circumstances were somewhat similar.

*Secondly.* Where the delay in stamping the articles arises from speculation whether or not such duty shall be paid, according as circumstances turn out; or, where the person articulated continues to serve, knowing that the articles have not been stamped within the proper time; or, where, at the time the articles were entered into, the clerk has no reasonable expectation that the money will be forthcoming, or that he will be able to pay it within the time allowed, the Courts will refuse to allow the

service to count from the date of the execution of the articles.

Acting on these principles, the Court refused to make the order in the following cases :

In *Ex parte Welsh*, where the articles were not enrolled within the six months, being left unstamped with the view of seeing whether the health of the clerk would enable him to continue to serve under them.

In *Ex parte Edwards*, where the facts were as follows : The father and son executed a mortgage for £500, the mortgagee advancing only £400, but agreeing to advance the remaining £100 shortly afterwards. The father promised the son that he should be articulated out of the £100, as soon as it could be obtained from the mortgagee. It never was procured, but on applying for it to the solicitor of the mortgagee, the son was told that as the money would probably be obtained within a month or six weeks he had better article himself. Acting on this advice, the son articulated himself on the 1st November, 1861, and some time afterwards, on finding that the mortgagee could not make the advance, he attempted to raise the money required for stamping the articles from another person, but did not succeed in getting it until February, 1863, when the articles were stamped. The Court was of the opinion that the clerk had no reasonable expectation that the money would be forthcoming at the date of the articles. Here, it was exceedingly doubtful whether the mortgagee would ever advance

the father the £100, and the son could not therefore be said to have had any reasonable expectation that the stamp duty would be paid at the time he was articulated.

In *Ex parte Belk*, where the omission to stamp and enrol arose from the failure of the father, through want of means, to provide a portion of the duty, according to his agreement with his son, on his entering articles. In this case the state of the father's means at the date of the articles was such as to render it very improbable that he would be able to pay his portion of the stamp duty within the six months, and the son, therefore, was not justified in believing that the money would be forthcoming within the proper time.

In *Ex parte Banyard*, Chief Justice Coleridge refused the order, on the ground that the applicant, (who was to have paid the duty himself,) had not, at the time he entered into articles, any expectation, or any right to believe that he would be able to pay it.

In giving judgment in the case of *Ex parte Jones*, Chief Justice Erle lays down the functions of the Court in an inquiry of this kind. Referring to a former case, decided by the Court of Queen's Bench, he says: "In *Ex parte Herbert*, the Court of Queen's Bench certainly seem to have proceeded upon a very vague set of premises. They were persuaded to come to the conclusion they did upon the supposed authority of *Ex parte Bishop*, and they—the majority of them, at least,—seemed to express

an opinion that it is entirely a matter of revenue, and that if the Lords of the Treasury are content to take the money, the Court ought to be satisfied too. The Court is not to hold a solemn inquiry, merely for the purpose of learning whether or not the Treasury has accepted the duty and penalty. It would be hardly consistent with the duty of the Court to sit for a whole hour merely to discuss a matter of that sort. I cannot consent to anything so contrary to reason."

### III. As to service under articles.

The clerk must be actually employed by his master in the proper business, practice, or employment of a solicitor during the whole time of service specified in the articles, except in the following cases :

Clerks bound for five years may, during one year of their term, serve as a pupil of a practising barrister or a certificated special pleader, and in addition or instead, one year with the London agent of the solicitor to whom they are bound.

In dealing with this subject, it may be well to consider, *first*, those cases which deal with the service of the clerk in relation to the articles of clerkship.

The first principle which appears to be laid down by the reported cases, is that there can be no valid service unless under written articles.

In *Ex parte Adams*, the facts were as follows: Mr. Adams was, in September, 1870, articulated to his father for the term of five years. He served under those

articles continuously up to October 2nd, 1873, when he was assigned to another solicitor for fifteen months, at the expiration of which period he returned to his father and served him under the original articles for the remainder of the five years. The Court decided that the period of fifteen months could not be reckoned as part of the five years' continuous service. Accordingly, Mr. Adams served his father until September, 1875, under the original articles, and for an additional fifteen months from that date in continuation of the articles, but merely under a parol contract, without entering into any new written articles. In 1876, Mr. Adams applied to the Master of the Rolls to be allowed to submit himself for examination at the next Final Examination. His lordship held that the applicant might be examined, but required him to enter into fresh articles for a period of fifteen months before he could be admitted, as his service since the expiration of the articles had not been service under a contract in writing, as required by the statute.

In *Ex parte Dalton*, the clerk was articulated to one partner, and served with another partner for three months after the death of his master, before any assignment of the articles was effected. It was held that such service did not count, even though the partner was a party to the original articles.

It was decided in *Ex parte Angel*, that the period of service counts from the date of execution, and not from the date of the articles.

The second principle which may be laid down, is that, where the clerk serves under more than one set of articles, service only will count which is performed either under the original or subsequent articles, and that until the former have been cancelled, such service must be with the original master.

In *Ex parte Hill*, it was held that service with another solicitor, though with the consent of the master, could not count as part of the term for which the articulated clerk was bound.

In *Ex parte Harrison*, the clerk having served a portion of his time with his master, it was agreed that his articles should be assigned to another solicitor for the rest of the term, and by this understanding, he left his master and served his new master as a clerk for the residue of the five years; but the assignment of the articles was not executed until about eight weeks after he had actually commenced to serve his new master. It was held that the interval, between entering the second master's service and the execution of the assignment, could not be reckoned as part of the term of service. This case overrules *Ex parte Brutton*.

In *Ex parte Austin*, a rule was refused in the case of an articulated clerk who, under two sets of articles, had served one solicitor for the whole period required, while in *Ex parte Trenchard*, where the circumstances seem somewhat analogous, the rule was granted, the Court holding that the original articles had been in effect cancelled.

*Secondly*, those cases must be considered which deal with the service in relation to the articled clerk himself. In dealing with this part of the subject, it will be advisable to consider first, what constitutes a valid service, and secondly, what employment the clerk may engage in during his articles.

(1) As to what constitutes a valid service.

In deciding whether the clerk has been in *active employment* in the business of a solicitor's office, the case of *Re James* may be consulted. The facts in this case were as follows: A solicitor's clerk claimed the right to go up for the Intermediate Examination after having served as a general clerk in a solicitor's office for ten years, and as an articled clerk for one year and a half. In his answers to the usual questions of the examiners of the Incorporated Law Society, he stated that he commenced such antecedent service at the age of thirteen. The Court decided that this was not *bonâ fide* and active employment in the business of a solicitor's office.

In deciding whether the service of an articled clerk has been sufficiently subject to the *supervision* of the master, the Court will not lay down any general rule, but will take into consideration the peculiar circumstances of each particular case. Thus, a person of mature age, or a clerk who has previously been a managing clerk for some years, renders supervision less necessary, than in the

case of a young man who is just entering the profession.  
*Re Duncan.*

In deciding whether there has been any breach of *continuous* service, the principle upon which the Courts will act has been laid down by Blackburn, J., in *Ex parte Moser*. He says: "It may well be that an absence for a month or two, with the consent of the principal, would not be a break in the service, but the present is a very different case. Here the applicant during the space of eleven months, and while he was at the Antipodes, was practically out of the control of his master, and cannot be said to have been in his service. The question in every case is one of more or less, and here I think the absence was too long."

In *Ex parte Matthew*, the clerk had served for two years and a half, but was prevented by illness from attending to business during the rest of the term, and accordingly he attended as his health permitted. The Court directed him to be admitted on the ground that he had done all in his power to qualify himself.

Where the clerk's absence is not allowed to be reckoned as part of the time of service, the Court generally permits the applicant to complete the original term by serving for a further period equal in duration to the length of absence, and does not require him to be bound again for the whole of the original term. *Ex parte Frost.*

(2) As to employment during articles.

During the period of his articles, the clerk is not allowed to hold any office, or engage in any employment whatever, other than the employment of clerk to the solicitor to whom he is articed and his partner in the business, practice, or employment of a solicitor.

In order to satisfy this requirement, there must in general be an actual and continuous service under the master's control, and in his practice of solicitor during the entire period of service, *i.e.*, no part of the time ordinarily allotted to office hours may be devoted other than to the master's business.

In *Re Taylor*, it was decided that a person who holds a situation and receives a salary from the Government as surveyor or assessor of taxes is not *sui juris* to enter into a contract for service as an articed clerk, and where such a person was articed and nominally served for five years, at the same time retaining his situation under the Government, and then commenced practice, he was afterwards struck off the roll.

In *Ex parte Peppercorn*, the Court allowed the applicant to be admitted, notwithstanding he had held the appointment of steward to a manor during his articles.

In *Ex parte Greville*, where the applicant had been appointed clerk to a Vestry, it was held that his service under articles was not sufficient. In giving judgment in this case, Lord Coleridge said: "The case of *Re Peppercorn* is one of a very peculiar nature. The articed clerk there became the steward of the manor in which

himself and his family were beneficially interested. The stewardship devolved on him as part of the family property, and by virtue of a family arrangement in order to protect such property. The case is altogether exceptional, and apparently the judgment must have been upon the ground that the words of the section were satisfied, and that no office was held within the meaning of them; for though Erle C.J. uses the word 'office' in his judgment, he states that the judgment was arrived at after conferring with the Judges of the Queen's Bench, who had previously decided the case the other way on the ground that it fell within the letter, if not the spirit, of the statute. It would appear, therefore, that on reconsideration of the case they must have been satisfied that the letter of the statute was not infringed. The decision must be considered as resting on its own peculiar circumstances. We are not prepared to extend the application of it."

In consequence of an Act of Parliament called "The Solicitors Act, 1874," the restrictions before mentioned, as to holding office during articles, shall not apply in cases where the articulated clerk obtains :

(a) The consent thereto in writing of the solicitor to whom he is bound, and

(b) The sanction thereto of the Master of the Rolls or of one of the Judges of the High Court of Justice, to be evidenced by an order from such Judge.

The Judge has power to impose any conditions which

he may think proper, and if any conditions are imposed, the applicant must, before his admission, prove that he has complied with them.

It is therefore now possible for an articulated clerk to ascertain definitely, whether he can undertake or continue any particular duty or employment during his articles, without infringing any rule of law.

#### IV. Construction of covenants in articles.

##### (1) Covenant not to transact business for client of master or firm.

A country solicitor is the "client" of his London agent within the meaning of a covenant by the articulated clerk not to transact business with any person who should be a client of his master's firm during the period of the articles. This rule was laid down in the case of *Reid v. Burrows* by Mr. Justice North. The following were the facts in this case. The clerk was articulated to a member of a firm of London solicitors. The articles of clerkship contained a covenant that the clerk would not, without the consent in writing of the solicitor or of any partner of his, during the term of five years for which he was articulated, "at any time within ten years after the expiration of the said term of five years, transact business, either on his own behalf or as clerk to any other person, for any person or persons, company or corporation, who shall, at any time during the said term of five years, be a client or clients of" the solicitor or any partner of his. The clerk was subsequently

admitted as a solicitor, and commenced practising in London; and within ten years from the expiration of the term of five years for which he had been articled, acted as London agent for a firm of country solicitors for which the firm of solicitors to whom he had been articled had, during the term for which he had been articled, acted as London agents. It was held, on a motion by the firm of London solicitors for an injunction to restrain the solicitor from acting in breach of his covenant in the articles of clerkship, that the country solicitors were clients of the firm of London solicitors within the meaning of the covenant; and the injunction was granted accordingly.

(2) Covenant not to do business with employer's clients.

The case of *Hayne v. Burchell* is an important one on the question of the liability of articled clerks and their fathers on a covenant by the clerk "not to take clients" of the solicitor to whom he was articled, nor transact any business for them or any of them. The action was brought against the executors of Mr. James Burchell and his son Charles Burchell, on a covenant in the articles of clerkship that the articled clerk "would not, either during the term, (five years,) or at any time afterwards during the lifetime of his employer, take any clients of his employer, nor transact nor do any business for them, and that if he should do so he should forfeit and pay to his employers, as liquidated damages, the

sum of £10 for every day in which he should be engaged or concerned in practice as a solicitor in violation of the covenant," and by bond the father became bound to the plaintiff in a penalty of £1,500 for due performance of the covenants. The father died in 1887, and it was alleged by the plaintiff that the son had taken nine clients of his employer, the plaintiff, and done business for them, and for this the action was brought, the plaintiff claiming £9,960 as damages, and the penalty of £1,500, and also an injunction. The defendant, the clerk, pleaded that he was, prior to April 30, 1879, an infant under the age of twenty-one, and that in August, 1880, the plaintiff had assigned the business and the benefit of the articles. On appeal it was held that there was no evidence of any breach of covenant in acting for or taking away clients of the plaintiff. Doing business for clients meant acting for them as solicitors, and the covenant could not be taken to mean that the young man was never to act as solicitor for any one who had been a client of his employer, even though he was not so at the time; that is, that at any time after the articles the young man must not do business for any one who at the time of the articles was or had been a client of his employer. That was far too wide and large a sense to be given to the covenant—it was insensible and absurd. No doubt if a person had been and was the habitual client of Mr. Hayne, and so that if he had any business to be done he would have employed

Mr. Hayne had it not been for young Mr. Burchell doing it, that might be within the covenant. But there was no evidence in the present case of any acting by young Mr. Burchell for such an habitual client of the plaintiff. There was, therefore, no cause of action.

(3) Articled clerks and private communications.

The case of *Postlethwaite v. Casey* deals with the question of articled clerks and documents belonging to their masters. The plaintiff was a solicitor in practice at Ulverston and Barrow-in-Furness, and the defendant had been his articled clerk. He had also acted as managing and confidential clerk, and since leaving the plaintiff's office he had published and threatened to continue to publish the contents of certain private and confidential communications with respect to the plaintiff's position and practice which had come into his possession while in the plaintiff's employ. The Court had ordered an injunction restraining the defendant from publishing, circulating, or disclosing the document in question, and this was now sought to be made perpetual, with an order for the delivery of the documents. No statement of defence had been delivered, and the defendant was clearly in default. The Vice-Chancellor granted the injunction as prayed.

(4) Death of principal.

In the case of *Ferns v. Carr*, Mr. Justice Pearson held that where a solicitor who had received a premium on taking the articled clerk died during the term of

articles, his estate was not liable for the return of any part of the premium. In this case the articles contained a covenant in the following terms: "That the said H. J. Carr will, by the best ways and means he may or can and to the utmost of his skill and knowledge, teach and instruct or cause to be taught or instructed the said H. C. Ferns in the said practice or profession of a solicitor which the said H. J. Carr now doth, or shall at any time hereafter during the said term use or practise." Three years afterwards C. died, whereupon F. brought an action against C.'s executors, claiming the return of the whole or some part of the premium. It was held that the claim must fail, and that even if the action would lie, little or nothing would be recoverable, as the clerk by his three years' service had just learned enough to become useful to his master. This case followed *Whincup v. Hughes*, and practically overruled *Hirst v. Tolson*.

*Ex parte Bayley* was distinguished, on the ground that in that case the solicitor was in partnership at the date of the articles, and that his partner who survived him was bound by them, though not named therein.

## CHAPTER X.

### Concerning the Privileges and Disabilities of Solicitors.

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THE profession of a solicitor has certain privileges and disabilities peculiar to itself. It is proposed in this chapter to treat of these as briefly as possible, and *first* let us consider the privileges.

*First*, then, a solicitor may claim exemption from all offices which necessitate his personal attendance, and he is entitled to a writ of privilege should his rights be infringed in this respect. These exemptions include serving on a jury, acting as overseer of a parish, churchwarden, tithing man or rent collector by manorial custom, or as a constable in his own county, or serving in the militia or in the offices of a corporation.

*Second*. There are certain offices and emoluments

which are usually held by solicitors. The reader will find a list of these given in the Appendix.

*Third.* Solicitors are entitled to practise in the House of Lords and the Supreme Court of Judicature, and in the Privy Council, on signing a declaration, without fee. They may also practise in any inferior Court, upon signing the roll, free from additional fee; but, in the Chancery Court of the County Palatine, a fee of £2 must be paid on entering their names and addresses with the registrar. They are entitled to act as Proctors in ecclesiastical matters.

*Fourth.* In certain Courts, solicitors are allowed to act as advocates. Justices in Quarter Sessions or Petty Sessions may hear solicitors, or not, at their discretion. Stipendiary chairmen have similar power. It must be noticed that in County Sessions, where the Bar attend by custom, it is usual to give them sole audience, and solicitors consequently are not heard in their presence. A solicitor is entitled to a right of audience in Bankruptcy matters in the High Court, including appeals to the Divisional Court from a County Court, but not to the Court of Appeal. In the County Courts, the solicitor retained in the action has a right of audience. He has a similar right in the Stannaries Court, and in proceedings under the Public Worship Regulation Act, 1874. In the Mayor's Court, a solicitor, though not entitled to be heard in open Court, has

a right of audience in all collateral matters. In addition, they have the right to attend in Judges' Chambers, either personally, or by deputy.

*Fifth.* It should also be observed, that a solicitor employed in any case need not leave the Court when witnesses are ordered out of Court, and that any practising solicitor has a right to enter the Courts during sittings, on production of a card which may be obtained at the office of the Law Society.

To these may be added a *sixth* privilege. A solicitor, as *amicus curiæ*, is entitled to absolute privilege from arrest on any process of law, when acting in his official capacity. This right is for the benefit and protection of his client, and does not extend to criminal proceedings.

Leaving these more favourable features of the profession, it must be remembered that, on the other hand, solicitors labour under certain disabilities. Of these, the most striking are the various restrictions to which the law has subjected them, having for their object the protection of their clients. These restrictions are, as Blackstone justly says, as a general rule so interpreted by the Courts, as to be neither unduly harsh towards the conscientious and able solicitor, nor ineffective to punish the incapable.

Again, the solicitor suffers under certain disabilities as to office. He cannot be a Justice of the Peace for

any county in England or Wales, (not being a county of a city or a county of a town,) in which he practises. Further, he cannot be a barrister or a ship-agent, nor can he be employed in certain capacities when he is acting for parties interested.

# APPENDICES.

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- A. FORMS.
- B. SOLICITORS' PRELIMINARY EXAMINATION.
- C. SOLICITORS' INTERMEDIATE EXAMINATION, WITH SPECIMEN ANSWERS.
- D. SOLICITORS' FINAL EXAMINATION, WITH SPECIMEN ANSWERS.
- E. SOLICITORS' HONOURS EXAMINATION, WITH SPECIMEN ANSWERS.
- F. LIST OF TEXT-BOOKS REFERRED TO, WITH NAMES OF AUTHORS, PUBLISHERS, AND PUBLISHED PRICES.
- G. REGULATIONS OF THE INCORPORATED LAW SOCIETY AS TO CLASSES.
- H. LIST OF APPOINTMENTS OPEN TO SOLICITORS.
- I. LIST OF IMPORTANT STATUTES.
- J. LIST OF LEGAL MAXIMS.
- K. LIST OF ABBREVIATIONS USED IN SOLICITORS' OFFICES.



## APPENDIX A.—FORMS.

IN this Appendix the author has collected some Forms which he believes are likely to prove of practical use to the Articled Clerk. Models of memorials for clerk to hold office during articles, for solicitor to enter certificate *nunc pro tunc*, for solicitor to alter name on rolls, and other useful forms, may be obtained from Messrs. E. Cox & Sons, the law stationers. These are too lengthy for insertion here.

### AFFIDAVIT OF MATRICULATION.

NOTE.—*This Affidavit must be produced on entering Articles of Clerkship, when the candidate desires to be excused his Preliminary Examination, or to be articled for a shorter term than five years. (See page 30.)*

In the Supreme Court.

I (*deponent*) of, etc., gentleman, make oath and say :

That previously to the date and execution of certain Articles of Clerkship bearing date the                      day of                      18    , and made between me this deponent of the first part, (*father of clerk*) of the second part, and (*solicitor*) of the third part, I matriculated at                      College, in the University of                      , and obtained my degree of                      in the said University on the                      day of                      , 18    .

Sworn at                      in }  
the County of                      , this }                      (Signature.)  
day of                      , 18    . }

Before me,

(Signature.)

A Commissioner to administer Oaths in the Supreme  
Court of Judicature,

## AFFIDAVIT OF LOSS OF ARTICLES OF CLERKSHIP.

NOTE.—*This Affidavit is used in support of an application to enrol a verified copy where the original Articles have been lost. (See page 31.)*

In the High Court of Justice.

In the matter of \_\_\_\_\_, gentleman, an articulated clerk.

I (*the deponent*), of, etc., a solicitor of the High Court of Justice, make oath and say :

1. That by certain Articles of Clerkship duly enrolled, bearing date, etc., and made between (*clerk*) of the first part, (*father of clerk*) of the second part, and me this deponent of the third part, the said (*clerk*) became bound to serve me, this deponent, as an articulated clerk in the business or profession of a solicitor of the said Court, thenceforth for the term of five years, upon certain terms and conditions in the said Articles of Clerkship expressed.

2. I further say that the said Articles of Clerkship have either been stolen from the office of this deponent, or accidentally or inadvertently destroyed, lost, or mislaid, so that they cannot now be produced ; and that I have made and caused to be made many and diligent searches and inquiries for, but I have been and still am unable to find or discover the same.

Sworn, etc.

(Signature.)

## AFFIDAVIT OF DUE SERVICE—THREE YEARS.

NOTE.—*This Affidavit is used upon an application for admission by a clerk who, having served in a solicitor's office for ten years, has been articulated for three years only. (See page 23.)*

In the Queen's Bench.

I (*deponent*), of, etc., gentleman, make oath and say :

1. That in pursuance of the Articles of Clerkship hereto annexed, bearing date the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_, I have really and

truly served and was employed by (*solicitor*), of, etc., gentleman, a solicitor of the Supreme Court, who has been duly admitted, as his clerk in the practice of a solicitor, from the day of the date of the said articles inclusive to the            day of           , one thousand eight hundred and            inclusive, being the full term of three years.

2. That I did not during the period of my service under the said Articles of Clerkship hold any office or engage in any employment other than that of clerk to the said (*solicitor*) in his business, practice, or employment of a solicitor.

3. That previously to the date of my Articles of Clerkship I have for the space of ten years been a *bonâ fide* clerk to           , and during that term have been *bonâ fide* engaged in the transaction and performance under the direction and superintendence of the said            of such matters of business as are usually transacted by solicitors.

Sworn, etc.

(Signature.)

APPENDIX B.—QUESTIONS SET AT THE  
SOLICITORS' PRELIMINARY EXAMINATION,  
MAY, 1895.

ENGLISH COMPOSITION.

(1 hour.)

Write an Essay or a letter on *one* of the following subjects :

1. Your education and course of study up to the present time.
2. The war between China and Japan.
3. On the choice of friends.
4. Physiognomy.
5. English poetry, A.D. 1895.
6. Any play you have seen, OR any novel you have read.

N.B.—Candidates are reminded that the composition exercises will be estimated more by quality than by quantity. Particular attention must be paid to the writing, spelling, and punctuation as well as to the matter of the exercise, which need not exceed four, and must not be less than two, pages. You are only required to do ONE of the above exercises.

LATIN GRAMMAR.

(1½ hours.)

1. Write down the Dative singular and the Genitive plural of the following nouns : *Ovis*, *Genu*, *Bos*, *Ver*, *Iter*, *Dux*, *Pignus*, *Socer*, *Latus*, *Cinis*.

2. How many declensions are there in Latin? How do you determine to which declension any noun belongs? Decline the Singular and Plural numbers of *Acer miles*, *Vetus mos*, *Atrox facinus*.
3. Write down the Positive, Comparative, and Superlative of the Adverbs formed from the Adjectives *Felix*, *Bonus*, *Humilis*, *Parvus*, *Similis*, *Æger*. What Adjectives do not form Comparisons?
4. Decline in the Singular, through all genders, *Celer*, *Uter*, *Quisnam*, *Vester*.
5. Distinguish between the following pairs of words, respectively: *Alius* and *Alter*; *Pejus* and *Deterius*; *Plerique* and *Plurimi*; *Qui* and *Quis*; *Bini* and *Duo*.
6. To what verbs do the following belong?—*Orsus sum*, *Tetigi*, *Ivi*, *Stravi*, *Cecini*, *Pepuli*, *Ablatus*, *Cecidi*, *Ratus sum*, *Qucesivi*, *Vexi*, *Gavisus sum*.
7. Write down the Latin equivalents of the following: "Sixteen," "Sixteenth," "Sixteen each," "Sixteen times," "One or two."
8. How many Tenses are there in Latin? And how would you classify them? Show that English is richer in Tense-forms than Latin.
9. What is a Deponent Verb, and why is it so called? Write down the Deponents of the Second Conjugation.
10. Give as many examples as you can of Verbs which vary their construction with their meaning.

11. Write down the Prepositions which take the Ablative case. Also those which take the Accusative or the Ablative.
12. What are the different ways of expressing a purpose in Latin? Is the Infinitive *ever* used to express a purpose?

LATIN.

(2 hours.)

Translate *three* of the following passages :

I.

Falso queritur de natura sua genus humanum, quod, imbecilla atque ævi brevis, forte potius quam virtute regatur. Nam contra reputando neque majus aliud neque præstabilius invenias, magisque naturæ industriam hominum quam vim aut tempus deesse. Sed dux atque imperator vitæ mortalium animus est, qui, ubi ad gloriam virtutis via grassatur, abunde pollens potensque et clarus est, neque fortuna eget, quippe probitatem, industriam aliasque artes bonas neque dare neque eripere cuiquam potest. Sin captus pravis cupidinibus ad inertiam et voluptates corporis pessum datus est, perniciose lubricine paullisper usus, ubi per socordiam vires, tempus, ingenium diffluxere, naturæ infirmitas accusatur; suam quisque culpam actores ad negotia transferunt.

II.

Si qua meis fuerint, ut erunt, vitiosa libellis;  
Excusata suo tempore, lector, habe.

Exsul eram : requiesque mihi, non fama, petita est :  
Mens intenta suis ne foret usque malis.  
Hoc est, cur cantet vinctus quoque compede fossor,  
Indocili numero cum grave mollit opus :  
Cantet et innitens limosæ pronus arenæ,  
Adverso tardam qui trahit amne ratem :  
Quique refert pariter lentos ad pectora remos,  
In numerum pulsa brachia versat aqua.  
Fessus ut incubuit baculo, saxove resedit  
Pastor, arundineo carmine mulcet oves.

## III.

Iphicrates Atheniensis non tam magnitudine rerum gestarum quam disciplina militari nobilitatus est. Fuit enim talis dux, ut non solum ætatis suæ cum primis compararetur, sed ne de majoribus natu quidem quisquam anteponeretur. Multum vero in bello est versatus, sæpe exercitibus præfuit, nusquam culpa male rem gessit, semper consilio vicit tantumque eo valuit, ut multa in re militari partim nova attulerit, partim meliora fecerit. Namque ille pedestria arma mutavit. Cum ante illum imperatorem maximis clipeis, brevibus hastis, minutis gladiis uterentur, ille e contrario peltam pro parma fecit (a quo postea peltastæ pedites appellabantur), ut ad motus concursusque essent leviores, hastæ modum duplicavit, gladios longiores fecit. Idem genus loricarum et pro sertis atque aënis linteas dedit. Quo facto expeditiores milites reddidit ; nam pondere detracto, quod æque corpus tegeret et leve esset, curavit.

## IV.

Æneas celsa in puppi, jam certus eundi,  
 Carpebat somnos, rebus jam rite paratis.  
 Huic se forma dei voltu redeuntis eodem  
 Obtulit in somnis, rursusque ita visa monere est,  
 Omnia Mercurio similis, vocemque coloremque  
 Et crines flavos et membra decora juvena :  
 Nate dea, potes hoc sub casu ducere somnos,  
 Nec, quæ te circum stent deinde pericula, cernis ?  
 Demens ! nec Zephyros audis spirare secundos ?  
 Illa dolos dirumque nefas in pectore versat,  
 Certa mori, varioque irarum fluctuat æstu.

## FRENCH.

(2 hours.)

*Chateaubriand, Voyage en Amérique.*

En supposant, ce que je crois la vérité, que les résumés statistiques publiés aux États-Unis soient exagérés par l'orgueil national, ce qui resterait de prospérité dans l'ensemble des choses serait encore digne de toute notre admiration.

Pour achever ce tableau surprenant, il faut se représenter les villes, comme Boston, New-York, Philadelphie, Baltimore, Savannah, la Nouvelle-Orléans, éclairées la nuit, remplies de chevaux et de voitures, offrant toutes les jouissances du luxe qu'introduisent dans leurs ports des milliers de vaisseaux ; il faut se

représenter ces lacs du Canada, naguère si solitaires, maintenant couverts de frégates, de corvettes, de cutters, de barques, de bateaux à vapeur, qui se croisent avec les canots des Indiens, comme les gros navires et les galères avec les pinques, les chaloupes et les caïques, dans les eaux du Bosphore. Des temples et des maisons, embellis de colonnes d'architecture grecque, s'élèvent au milieu de ces bois, sur le bord de ces fleuves, antiques ornements du désert. Ajoutez à cela de vastes collèges, des observatoires élevés pour la science dans le séjour de l'ignorance sauvage, toutes les religions, toutes les opinions vivant en paix, travaillant de concert à rendre meilleure l'espèce humaine et à développer son intelligence : tels sont les prodiges de la liberté.

OR

*Corneille, Cinna.*

Tu te tais maintenant, et gardes le silence  
Plus par confusion que par obéissance.  
Quel étoit ton dessein, et que prétendois-tu,  
Après m'avoir au temple à tes pieds abattu ?  
Affranchir ton pays d'un pouvoir monarchique ?  
Si j'ai bien entendu tantôt la politique,  
Son salut désormais dépend d'un souverain  
Qui, pour tout conserver, tienne tout en sa main ;  
Et si sa liberté te faisoit entreprendre,  
Tu ne m'eusses jamais empêché de la rendre ;  
Tu l'aurois acceptée au nom de tout l'État,  
Sans vouloir l'acquérir par un assassinat.

Quel étoit donc ton but ? d'y régner en ma place ?  
D'un étrange malheur son destin le menace,  
Si, pour monter au trône et lui donner la loi,  
Tu ne trouves dans Rome autre obstacle que moi,  
Si jusques à ce point son sort est déplorable,  
Que tu sois après moi le plus considérable,  
Et que ce grand fardeau de l'empire romain,  
Ne puisse après ma mort tomber mieux qu'en ta main.

*Grammatical Questions.*

1. Write down in French one of each of the following pronouns : personal—possessive—relative—interrogative—demonstrative—indefinite—disjunctive.
2. Parse the following sentence : Je voudrais que vous vinssiez me voir à la fin de cette semaine.
3. Point out what part of speech the word "tout" is in the following sentences : tout atteste sa supériorité—toutes les amitiés—tout savants qu'ils sont—diviser un tout en plusieurs parties.
4. State the three different ways by which the French "quelque" is written.
5. Give the following idiomatic past tenses in French of : I have just worked—I had just worked—I am going to work—I am to work—I was going to work.
6. Give the English of the following expressions : Il ne s'avise de rien—Voilà un beau venez y voir—Nous ne nous en devons guère—Savoir bien le monde—Votre excuse n'est pas mise—Faire jouer des ressorts.

Translate:

The next morning the sun shone out as usual and soon dried our clothes. As the vessel showed no signs of immediate sinking, we broke up our raft and made another, stronger and more substantial, upon which we rigged a mast, and prepared a sail. Our provisions were then got together and examined, and, as we had picked up a few more things, we were in no danger of immediate starvation. Our stores consisted of one cask of water, two chests of bread, one keg of butter, three hams, a small box of dried peaches, three pounds of almonds, a few pounds of rice, and a drowned chicken.

#### ARITHMETIC.

(2 hours.)

[N.B.—The working must in every case accompany the answers.]

1. Find the number of parcels which will weigh 3 tons 6 cwt. 0 qr. 15 lbs. 11 oz., the weight of each parcel being 4 lbs. 3 oz.
2. Multiply 3 miles 2 fur. 5 po. 3 yds. by 111.
3. Find the G. C. M. of 57627, 38988, 38076.  
Find the L. C. M. of 56, 60, 84, 210, 220, 225.
4. Simplify—

$$\frac{1\frac{27}{28} \div 3\frac{21}{26}}{1\frac{20}{81} - \frac{29}{36}} + \frac{2}{45} \text{ of } 4\frac{1}{11} \text{ of } 2\frac{4}{7}.$$

5. Multiply '01701 by 20'7, and 17'01 by '00207.  
Divide '1 by '673 correct to five places of decimals.

6. Express (1)  $(2\dot{3} - 1\dot{5}0\dot{4}) \times \dot{3}7\dot{3}$  as a fraction in its lowest terms.

(2)  $\frac{40\dot{3}}{148}$  as a recurring decimal.

7. Find the value of 23 acres 3 roods 22 po. 11 sq. yds. at £11 an acre.
8. Find the value of '01625 of a ton.  
Express 9 minutes 27 seconds as a decimal of a week.
9. A stream is 32 feet wide and of an average depth of 8 feet. If the water flowing past a given transverse section in a minute weighs 1,100 tons, find the velocity of the stream in miles per hour, given that a cubic foot of water weighs 1,000 oz.
10. A man has £373 10s. 3d. left after paying an income tax of 8d. in the £ on the excess of his income over £160. Find his income.
11. If 12 men working 8 hours a day can do a piece of work in 9 days, how many hours a day must 15 men work to do a piece twice as great in 16 days?
12. Find the simple interest on £26 5s. for 3 months at 5 per cent. per annum.

At what rate per cent. per annum will £85 amount to £92 15s. 10d. in 3 years 4 months?

## ALGEBRA AND EUCLID.

(2 hours.)

I.—*Algebra.*

1. Simplify—

$$x(x + y - z) - \{y(z - x) - z(x - y)\} - [xy - x\{y - (z - x)\}].$$

Find the value of—

$$(a + b + c)(a^2 + b^2 + c^2 - bc - ca - ab), \text{ when } a = 1, \\ b = -1, c = 2.$$

2. Multiply  $a^2 + (b + c)^2$  by  $a^2 - b^2 - 2bc - c^2$ .

$$\text{Divide } p^4 - 5p^2q^2 + 2pq^3 + 4pqr^2 - q^2r^2 - r^4 \text{ by } p^2 - 2pq + r^2.$$

3. Find the greatest common measure of—

$$2x^4 - x^3y - 3x^2y^2 - xy^3 \text{ and } 2x^5 - 3x^4y + x^2y^3.$$

4. Simplify—

$$(1) \frac{1}{x^2 - 5x + 6} - \frac{5}{2x^2 - 3x - 2} + \frac{7}{2x^2 - 5x - 3};$$

$$(2) \frac{a^2 + b^2}{a^4 - b^4} \times \frac{(a + b)(a^3 - b^3)}{a^4 + a^2b^2 + b^4};$$

$$(3) \frac{x}{y - \frac{xz}{x - \frac{xy}{y - z}}}.$$

5. Solve the equations—

$$(1) \frac{x}{4} - \frac{x + 1}{6} = \frac{2x - 5}{12};$$

$$(2) \frac{x - 2}{x - 3} - \frac{x - 3}{x - 2} = \frac{2}{x - 1};$$

$$(3) \frac{2x + y}{a} = \frac{2y - 3x}{b} = 7.$$

6. A certain fraction when reduced to its lowest terms is  $\frac{3}{4}$ , but if its numerator be diminished by 3 and its denominator increased by 7 it becomes equal to  $\frac{3}{8}$ . Find the fraction.

## II.—*Euclid.*

1. Define *plane superficies*, *parallelogram*, *sector of a circle*, *rhomboid*, *segment of a circle*.
2. Bisect a given rectilineal angle; that is, divide it into two equal angles.
3. Parallelograms on the same base, and between the same parallels, are equal to each other.
4. If a straight line be bisected, and produced to any point; the rectangle contained by the whole line produced, and the part of it produced, together with the square on half the line bisected, is equal to the square on the line made up of the half and the part produced.
5. Angles in the same segment of a circle are equal to one another.  
A, B, C are three points on the circumference of a circle and the straight line bisecting the angle BAC meets the circle again at D. Shew that  $DB = DC$ .
6. If from a point without a circle there be drawn two straight lines, one of which cuts the circle, and the other meets it; if the rectangle contained by the whole line, which cuts the circle, and the part of it without the circle be equal to the square on the line

which meets it, the line which meets shall touch the circle.

7. Describe a circle about a given triangle.

#### HISTORY AND GEOGRAPHY.

(2 hours.)

1. What were the names of the three principal Teutonic tribes who came over to this country from the Continent, and in what portions did they settle themselves, respectively? Explain the meaning of the term, "The groans of the Britons."
2. Write a short life of Edward the Confessor.
3. State what you know of Domesday Book. Why was it so called? Give a brief sketch of the Feudal System.
4. Distinguish between the *Constitutions of Clarendon* and the *Assize of Clarendon*. What was the origin of the quarrel between Henry II. and Thomas à Becket?
5. What were the rival claims of Henry VI. and Richard Plantagenet, Duke of York, to the Crown of England, and of John Baliol and Robert Bruce to that of Scotland?
6. What theories have been held respecting the origin of trial by jury?
7. Exhibit your acquaintance with the most important measures during the reign of Henry VIII. affecting

the relations between this country and the Church of Rome.

8. How did Henry VIII. by his will devise the Crown, and who were, in fact, his successors?
9. Write a life of Cardinal Wolsey.
10. Give the substance of the following enactments :  
*The Bill of Rights. The Habeas Corpus Act. The Six Articles. The Act of Settlement. The Test Act. The Instrument of Government.*
11. Describe (in words, or by a map) the coast-line of Europe. What proportion does land bear to water on the surface of that continent?
12. Draw a map of Ireland.
13. Into how many departments is France divided? Where do the Seine, the Loire, and the Rhone, respectively, discharge themselves?
14. On what rivers are the following towns situated :  
Bristol, Perth, Limerick, Dublin, Salisbury, Cork?
15. What are the great natural divisions of England, and what are the principal seaports?
16. Define a meridian, and explain the meaning of the terms latitude and longitude.

## APPENDIX C.

### QUESTIONS SET AT THE SOLICITORS' INTERMEDIATE EXAMINATION, APRIL, 1895.

#### *Preliminary.*

- A. What is *now* your age?
- B. Where, and with whom, are you serving your clerkship?
- C. State the particular branch or branches of the law to which you have hitherto principally applied yourself.
- D. Mention some of the principal law books which you have read and studied.
- E. Have you attended any, and what, law lectures or law classes?
- F. What examination in general knowledge did you pass to entitle you to enter into articles of clerkship? If exempted from the Preliminary Examination, state the nature of such exemption.

#### HEAD I.

- 1. State shortly the effect of the Intestates' Estates Act, 1884, on the estate of a *cestui que* trust who has died without heirs.

2. Explain a "lease and release." For what reasons did this form of conveyance obtain popularity?
3. With regard to copyholds, in what respects does the position of a person entitled to be admitted upon surrender differ from that of a person entitled to be admitted upon descent?
4. How are incorporeal hereditaments, such as lights and watercourses, extinguished after their acquisition?
5. Is the inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title a good objection to the title? Give the authority for your answer.
6. How would you advise a tenant for life to proceed before mortgaging a part of the settled lands?
7. Under what headings does Stephen classify the following estates: A base fee, tenancy in tail after possibility of issue extinct, tenancy for life, tenancy at will, and tenancy for years?
8. Write out a sufficient attestation clause to a will, and enumerate the various ways by which a will or codicil can be revoked.
9. A., the purchaser of freehold estates, dies intestate, his only surviving relatives being two half-sisters (the daughters of his mother by a former marriage), a son of a deceased sister, and a great-uncle *ex parte maternâ*. State the order in which they will take.

10. What rules does Stephen lay down with respect to the creation of remainders?

## HEAD II.

11. State what rights were secured to the occupiers of land by the provisions of the Ground Game Act (43 & 44 Vict. c. 47).
12. What is copyright, and how long does it last? What formality must be observed before an action for infringement of copyright can be commenced?
13. What is a "*donatio mortis causa*"? How does it differ (1) from an ordinary gift, (2) from a legacy?
14. Give any three of the five cases of contract in which the Statute of Frauds enacts that no verbal promise shall be sufficient to ground an action upon.
15. A., a trader, sells to B., another trader, the goodwill of his business, on condition of receiving the price, by way of annuity or otherwise, out of the profits of the business. Does this arrangement make A. a partner with B.; and if B. becomes bankrupt, what is A.'s position? Give the Act in point.
16. Explain what is meant by the retrospective effect of a debtor's bankruptcy.
17. Distinguish between the division of an intestate's personal estate *per capita* and the division of it *per stirpes*, and give instances illustrating your answer.

18. State shortly what an apprentice is, and the meaning of the word.
19. Give the four civil disabilities to marriage.
20. What are the main provisions of the Infants' Relief Act, 1874 (37 & 38 Vict. c. 62)?

### HEAD III.

21. What limited jurisdiction, according to Stephen, has the Common Law over the space between the high water mark and low water mark in England?
22. Stephen states that an action will not be taken away by mere accord without satisfaction. Explain this by giving a practical illustration in your answer.
23. How does an infant sue in and defend an action, and by whom is the solicitor to such infant appointed?
24. Mention the several distinct commissions under the authority of which the judges and the other persons named therein sit upon their circuits.
25. What are the two points mentioned by Stephen to be requisite to constitute the injury of false imprisonment?
26. What is a popular or *qui tam* action, and why is it so designated?
27. Explain the difference between the Common Law and Civil Law with reference to the maxim "*Unius responsio testis omnino non audiatur.*"

28. State when it is unnecessary in divorce proceedings that the answer of the respondent should be accompanied with an affidavit.
  29. Explain the meaning of the terms *non-feasance*, *mis-feasance*, and *mal-feasance*.
  30. How are proceedings upon a petition of right now commenced?
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ANSWERS TO THE QUESTIONS SET AT THE  
SOLICITORS' INTERMEDIATE EXAMINATION,

APRIL, 1895.

*(In the answers the eleventh edition of Stephen's  
Commentaries is referred to.)*

HEAD I.

1. Before the Act the trustee would have held the beneficial estate free from the trust ; but since the Act the beneficial estate will escheat to the Crown (Vol. I. 373).
2. This was a compound conveyance operating under the Statute of Uses (27 Hen. VIII. c. 10), and consisted of a bargain and sale for a year followed by a release of the reversion. By the operation of the Statute the bargainee was technically in possession under the bargain and sale, and the residue of the estate could then be conveyed to the

purchaser by the deed of release. The popularity of this mode of conveyance resulted from, firstly, the desire to avoid the inconvenience of actual entry, and, secondly, the desire to avoid inrolment under the Statute of Inrolments (27 Hen. VIII. c. 16, Vol. I. 519).

3. The admittance upon surrender is necessary in order to complete the title of the tenant, who before admittance has nothing beyond the mere possibility of an interest. But the admittance upon descent is principally for the purpose of enabling the lord to obtain his fine, for the heir is for most purposes a perfect tenant by copy immediately upon the death of his ancestor (Vol. I. 608).
4. Amongst other methods incorporeal hereditaments may be extinguished (1) by release, (2) by merger, and (3) by abandonment (Vol. I. 637).
5. It is not a good objection provided that the purchaser will have an equitable right to the production of such documents. The authority is the Vendor and Purchaser Act, 1874, s. 2 (Vol. I. 672).
6. Ordinarily a tenant for life cannot mortgage the settled estate, but he is allowed to do so for certain purposes (Settled Land Acts, 1882 and 1890). He

must, however, give notice of his intention to mortgage to each of the trustees of the settlement and to their solicitors, if known, by sending the same by registered post not less than one month before he exercises the power. It is provided that there must, at the date of the notice, be at least two trustees, unless the settlement otherwise provides (Settled Land Act, 1882, Vol. I. 688).

7. The first three are classified as freehold estates ; a *base fee* being an estate of inheritance, and a *tenancy in tail after possibility of issue extinct* and a *tenancy for life* being estates not of inheritance. A tenancy at will and a tenancy for years are classified as estates less than freehold (Vol. I. caps. 4 and 5).
8. "Signed by the said testator, as and for his last will and testament, in the presence of us, present at the same time, who at his request, in his presence, and in the presence of each other, have hereunto subscribed our names as witnesses." A will or codicil may be revoked : (i) by a subsequent will or codicil, or by any instrument executed as a will and expressing an intention to revoke it ; (ii) by marriage, except when made in pursuance of a power of appointment, and when the property would not in default pass to the testator's heir or next of kin ; (iii) by burning, tearing, or otherwise destroying, *animo*

*revocandi*, either by the testator, or by some other person in his presence and by his direction (Vol. I. 574).

9. (1) The son of the deceased sister ; (2) the two half-sisters as co-parceners ; (3) the maternal uncle (Inheritance Act, 1833, Vol. I. c. 11).
10. (1) There must be a particular estate precedent to the estate in remainder ; (2) the remainder must commence at the time of the creation of the particular estate ; (3) the remainder must be limited to take effect in possession immediately upon the determination of the particular estate. As regards contingent remainders, there are also the two following rules : (1) If they amount to a freehold they cannot be limited on a particular estate less than freehold ; (2) they must vest either during the continuance of the particular estate, or *eo instanti* that it determines (Vol. I. 321-326).

## HEAD II.

11. The right of the occupier to kill ground game concurrently with the landowner or other person entitled under him to such game is made a right inseparable from his occupation, and he cannot contract himself out of this right (Vol. II. 20).

12. Copyright is the right of an author to print and publish his own original work exclusively of all other persons (Copyright Act, 1842). It lasts for the natural life of the author and seven years afterwards, or for forty-two years from the first publication, whichever period is the longer. The proprietor must register his title at Stationers' Hall before he can commence an action for infringement of copyright (Vol. II. 36).
13. It is a gift of personal property made by a person in his last illness and apprehending his dissolution near; it is effected by delivery of the thing itself or the means of obtaining possession thereof. (1) It is revocable, it is subject to duty, and is liable for the donor's debts on a deficiency of assets; (2) it takes effect *sub modo* in the lifetime of the donor, and does not require the assent of the executor (Vol. II. 55).
14. (1) An agreement for the sale of lands or of any interest in or concerning the same; (2) an agreement made in consideration of marriage; (3) an agreement which is not to be performed within a year (Vol. II. 60).
15. No, it does not, for the Partnership Act, 1890, expressly provides that this shall not constitute

a partnership. If B. becomes a bankrupt, A. cannot prove until all the other creditors have been satisfied (Vol. II. 112).

16. The bankruptcy of a debtor has relation back to the act of bankruptcy on which the receiving order was made, or if there is more than one then to the first act of bankruptcy committed by the bankrupt within three months prior to the presentation of the bankruptcy petition (Vol. II. 169).
17. The next of kin take *per capita* when they take in their own rights, *per stirpes* when they take as representing another person. For example, suppose A. dies, leaving three children, B., C., and D. In this case they each take a third of his personal estate *per capita*; but suppose B. and C. die in A.'s lifetime, B. leaving three children and C. leaving two, then the distribution is *per stirpes*; i.e. one third to B.'s three children, another third to C.'s two children, and the remaining third to D. (Vol. II. 225).
18. The word apprentice is derived from *apprendre*, to learn, and an apprentice is a person who is bound by indenture for a term of years to serve his master, who agrees to instruct and maintain him during this period (Vol. II. 243).

19. (1) A prior marriage, the previous husband or wife being still living ; (2) insanity or want of reason ; (3) proximity of relationship ; (4) want of age (Vol. II. 259).
20. It provides (1) that all contracts by infants for the repayment of money lent or for goods supplied (other than contracts for necessities), and all accounts stated with them shall be absolutely void ; (2) that no contract with an infant shall become actionable as against him by subsequent ratification (Vol. II. 190).

## HEAD III.

21. The Common Law and Admiralty have alternate jurisdictions, according as the tide ebbs and flows. The Common Law has jurisdiction over the land and the Admiralty over the water (Vol. II. 190).
22. If a man owes another £500, an agreement with his creditor that he shall give a promissory note for £500 will not avail to discharge the original right of action unless the note is actually given, for this is an instance of accord without satisfaction (Vol. III. 376).
23. An infant sues either by a guardian *ad litem* appointed by the Court or by his next friend ; and

defends by a guardian *ad litem* ; it is the next friend or the guardian who must appoint the solicitor (Vol. III. 291).

24. The commissions which are applicable to civil cases are the commissions *of assize* and *nisi prius* ; and those which are applicable to criminal cases are commissions *of the peace* ; *oyer* and *terminer* ; and *of gaol delivery* (Vol. III. 375).
25. (1) The detention of the person ; (2) the unlawfulness of such detention (Vol. III. 424).
26. It is an action which is brought when a penal statute has been transgressed, and where one part of the penalty is given to the Crown and the other part is given to the informer. It is so called because it is brought by a person *qui tam pro domino rege quam pro re ipso sequitur* (Vol. III. 470).
27. One witness, if credible, is sufficient evidence to a jury of any single fact, though undoubtedly the concurrence of two or more corroborates the proof ; for the common law considers that there are many transactions to which only one person is privy, and therefore does not always demand the testimony of two, as the civil law universally required (Vol. III. 576).

28. An affidavit is unnecessary when it consists of a mere denial of the facts (Vol. III. 672).
29. *Non-feasance* signifies the omission of an act which a man is by law bound to do; *mis-feasance* signifies the improper performance of a lawful act; *mal-feasance* signifies the omission of an act which in itself is unlawful (Vol. III. 292).
30. A petition which must particularly state the whole title of the Crown is left with the Home Secretary, and the fiat is then granted by the Crown *soit droit fait al partie* (let right be done to the party). The fiat is then served on the solicitor to the Treasury, and subsequent proceedings follow as far as possible the course of an ordinary action (Vol. III. 681).

## APPENDIX D.

### QUESTIONS SET AT THE SOLICITORS' FINAL (PASS) EXAMINATION, APRIL, 1895.

FIRST DAY, 10 A.M. to 1 P.M.

#### *Preliminary.*

- A. What is *now* your age?
- B. Where, and with whom, did you serve your clerkship?
- C. State the particular branch or branches of the law to which you have hitherto principally applied yourself.
- D. Mention some of the principal law books which you have read and studied.

#### I.—*Conveyancing.*

- 1. Under an open contract, what length of title may be required by a purchaser of (1) freeholds; (2) leaseholds; (3) advowsons?
- 2. Is a notice by landlord to tenant to quit part only of the demised premises in any, and if so what, case valid?
- 3. Upon a sale of enfranchised copyholds when the

- enfranchisement was voluntary, what special provision (if any) would you consider it advisable to make as to the title of the lord to enfranchise?
4. What was the purport, object, and effect of the Statute of Uses (27 Hen. VIII. c. 10)?
  5. What is the effect of a settlement of personalty on trusts to correspond with the uses of freeholds settled to the use of A. for life, with remainder after his death to his eldest son in tail with remainders over?
  6. Does it make any difference to a mortgagee's right to foreclose that he has previously recovered part of the mortgage debt in an action on the covenant? If a mortgagee has sold under the power of sale vested in him by the mortgage deed and recovered part of the mortgage debt, can he sue the mortgagor for the balance?
  7. A testator by his will bequeathed £5,000 to his trustees in trust for X. for life, and after her death for all her children who should attain twenty-five. What is the effect of the bequest? Give reasons.
  8. X., the wife of Z., dies intestate seised in fee in possession of Blackacre, a freehold estate. There has been no issue of the marriage. Advise Z. whether he is entitled to any interest in Blackacre.
  9. In the case of a purchase of settled land from the trustees, what precaution should be taken by the purchaser's solicitor before completing?

10. Lease of agricultural land containing a proviso for re-entry on the bankruptcy of the lessee. Can the lessor re-enter upon the lessee becoming bankrupt?
11. You are carrying through a mortgage of freehold property (subject to prior incumbrances) and a life policy. What notices should be given for the protection of the mortgagee, and why?
12. In a marriage settlement a life interest is given to the husband with a gift over on his bankruptcy, or on his attempting to alien or charge it. How far are these limitations valid?
13. X. died intestate a widower. The intestate had two children, A. and B., who both predeceased him. A. left one child, C., and B. left two children, D. and E. How is the personal estate of the intestate to be distributed?
14. You are preparing a deed of gift of cottages to trustees to be used as almshouses. What formalities must be complied with that the deed may be valid? Advise the donor whether his death would affect the validity of the deed, and, if so, what course is open to him to ensure his wishes being carried out.
15. X., being absolutely entitled to an interest in expectancy in personal property, sold the same in 1890. The interest falls into possession in 1895. Is the purchaser liable to estate duty under the Finance Act, 1894?

## FIRST DAY, 2 to 5 P.M.

II.—*Equity*.

16. "He who seeks Equity must do Equity." Illustrate this maxim in the cases of (a) a plaintiff, a borrower of money on usurious interest, seeking the aid of the Court to set aside the instrument ; (b) a plaintiff, a lender of money under like circumstances, seeking its aid in enforcing his claim under the instrument by which he claims.
17. How does Equity treat a contract entered into by a person *non compos mentis*?
18. What are the two kinds of lien that a solicitor has for his costs ; and what are their relative advantages and disadvantages?
19. State the general rule as to the appropriation of payments by a debtor to his creditor.
20. Under what circumstances may a trustee effectively purchase from his *cestui que trust*?
21. A., who has given his guarantee to a bank to secure an overdraft in favour of B., subsequently is desirous of relieving himself from his liability thereunder. What are the courses open to him to effect this?
22. When a company is being wound up, in what cases is a person who has ceased to be a member under no liability to contribute?

23. To what extent is a retiring or surviving partner at liberty to avail himself of his former connection with the firm ?
24. What relief is it open to a mortgagee or mortgagor to obtain by means of an originating summons ?
25. What duty is imposed on a solicitor who has the carriage of an order directing taxation of costs, and what penalty attaches if he fails in such duty ?
26. Your client being asked to advance money on a second mortgage on land, consults you as to the expediency of his doing so ; what objections should you point out to him against his assenting to make the advance ?
27. A mortgagee enters into possession of the mortgaged property. Under what circumstances will the Court require, and when will it not require, annual rests to be made ?
28. As against a mortgagor seeking to redeem, or a mortgagee seeking to foreclose, what costs is the mortgagee entitled to ?
29. Define *conversion*. How is money paid into Court under the Lands Clauses Consolidation Act treated (a) when the parties are competent to convey ; (b) when the parties are under disability ?
30. Define a "special resolution" under the Companies Act.

SECOND DAY, 10 A.M. to 1 P.M.

III.—*Common Law and Bankruptcy.*

31. What is the general rule for determining the liability of a master for torts committed by his servant? Is a master liable in the following cases? (1) His coachman causes damage through wilfully driving into another vehicle. (2) Being sent to the railway station the coachman, while driving the carriage for purposes of his own by a circuitous route, causes injury to a foot passenger.
32. A. and B. are the makers of a joint promissory note on demand for £500. A. pays annually £50 on account during five years. Two years later the holder sues for the balance due. Can B. under any, and what, circumstances successfully plead the Statutes of Limitation?
33. State shortly the nature of the right conferred by the "Prescription Act" (2 & 3 Will. IV. c. 71) to the enjoyment of ancient lights. In an action for damages for obstruction of such lights, what is the rule applicable if the defendant proves that the owner of the dominant tenement has all the light necessary for the purposes of his business?
34. How does the nature of the contract in the case of a life assurance differ from that of a fire assurance policy? A creditor insures the life of his debtor for the amount of his debt. The debtor's executors

pay the debt. Can the creditor recover from the insurance office the sum insured and retain it for his own use?

35. In what cases may an action for the breach of an executory contract be brought, before the day of performance arrives? B. contracts to deliver goods to C. by two equal parcels. Is B. released from delivering the second parcel, if C. refuses to accept (or neglects to pay for) the first in accordance with the contract?
36. Explain what acts amount to a malicious prosecution, and what must be proved in order to support an action therefor, and state what the respective functions of the judge and jury are in determining the issues.
37. How are the liabilities of the other parties to a bill of exchange affected, if the holder for value discharges (1) the acceptor, (2) the first of three indorsers?
38. If a superior landlord levies a distress for rent due by his immediate tenant, what steps can a lodger take to protect his own goods and chattels, and such as are in his lawful possession, and what are his means of redress if the distress be persisted in?
39. What are a landlord's rights as to recovery of rent due by a bankrupt tenant, and how may they become forfeited?

40. Will a promise, by a bankrupt who has obtained his discharge, to pay a debt provable in the bankruptcy, support an action by the creditor?
41. Where a debt, which includes interest at 10 per cent., is proved against a bankrupt's estate, can any, and if so, what amount of interest be brought into account for the purposes of dividend?
42. Where may a defendant to a writ, issued in a district registry, enter his appearance? Explain what is meant by an appearance under protest.
43. At what stage of an action may notice of trial be given, and what is the length of such notice? When, and how, may a defendant proceed if notice of trial be not duly given by the plaintiff?
44. Can a defendant in a civil action be arrested at the plaintiff's instance under any, and what, circumstances? If so, at what stage of the action, and by what mode?
45. The lessee of a house, holding under a repairing lease at a rental of £125, is assessed for the Income Tax (Schedule A) at £133 annual value. What proportion of the tax can he deduct from his rent, and how has the Finance Act, 1894, affected the amount of tax to be paid?

## SECOND DAY, 2 to 5 P.M.

IV.—*The Principles of Law and Procedure in the Probate, Divorce, and Admiralty Division of the High Court of Justice, Ecclesiastical and Criminal Law and Practice, and Proceedings before Justices of the Peace.*

## PAPER A.

46. By what process can a party to a Probate action compel a person, who is not a party to such action, but has in his possession a testamentary document of the testator in the action, to lodge such document in the Probate Registry?
47. State the provisions made by the Legislature for securing payment for corporate bodies of a duty in lieu of the duties payable on the death of individual owners of property. Mention any property exempted from such provisions.
48. If an executor of a deceased person be unable to swear to the precise date of such person's death, on applying for probate what course should he pursue?
49. Under what circumstances may a magistrate grant a judicial separation?
50. What is an act on petition, and under what circumstances should one be filed in a matrimonial suit?
51. What are the circumstances under which the Court may reverse a decree for judicial separation?
52. In what actions in the Admiralty Division must a Preliminary Act be filed? Mention any six of the particulars it must contain.

53. Under what circumstances may proceedings *in rem* be taken for damage done to goods on board a vessel by the negligence of the master and crew, and by whom must they be taken?
54. In what manner are arrears of tithe rent charge recoverable when the lands out of which they issue are occupied by the owner, and how much may be so recovered?

## PAPER B.

55. What are the contents of an indictment? State some instances in which an accused person may be found guilty of an offence not expressly charged by the indictment.
56. In what cases have justices jurisdiction as to recovery of possession of tenements, and what is the method of procedure?
57. What criminal proceedings can be taken for the non-repair of a highway?
58. What are the provisions of the Summary Jurisdiction Act as to appeals against a conviction by a Court of Summary Jurisdiction?
59. In what manner can the mother of an illegitimate child proceed to obtain an affiliation order under the Bastardy Acts?
60. What proceedings can be taken against a bankrupt who has fraudulently concealed certain debts due to him, and mutilated his books containing entries relating to such debts, and will it make any difference if he has obtained his discharge in the bankruptcy?

ANSWERS TO THE QUESTIONS SET AT THE  
SOLICITORS' FINAL (PASS) EXAMINATION,  
APRIL, 1895.

I.—*Conveyancing*.

1. He can require (1) a title for a period of forty years prior to the day of sale (Vendor and Purchaser Act, 1874); (2) the lease itself, which is the subject of the assignment, and mesne assignments for the last forty years (Vendor and Purchaser Act, 1874; Conveyancing Act, 1881, s. 3); and (3) a title for 100 years, or three incumbancies if they amount to 60 years (3 & 4 Will. IV. c. 27; *Bolton v. London School Board*, 7 Ch. D. 766).
2. The general rule is, that a notice to quit part of the demised premises is void. But under the Agricultural Holdings Act, 1883, s. 41, a landlord may give notice to quit part of the demised lands in order to make improvements therein mentioned. The tenant will, however, be entitled to compensation and reduction of rent, and also to have the option of giving up the entire holding.
3. It would be unnecessary to make any provision, for the Conveyancing Act, 1881, s. 3, sub-s. 2, provides that the purchaser of enfranchised copyholds shall not call for the title "to make the enfranchisement."

Formerly the purchaser was entitled to investigate, not only the copyhold title, but also the lord's title down to the enfranchisement, unless the enfranchisement had taken place under the Copyhold Act, 1852.

4. The statute provided that where any person was seised of lands or other hereditaments "to the use of" another, he who had the use should be deemed in lawful seisin of the lands and hereditaments. The object of the statute was to abolish uses as distinguished from legal estate, and it had the effect of giving the legal estate to the person who formerly had the equitable estate.
5. There can be no estate tail in personalty, the chattels will therefore vest absolutely, on A.'s death, in the first tenant in tail (*Leventhorpe v. Ashbie*, Tud. L. C. Conv. 763).
6. A mortgagee can pursue his remedies consecutively as well as concurrently. He may therefore sue on his covenant first, and if not satisfied, he may foreclose. Yes, if he has exercised his power of sale *bonâ fide*, he can still sue on the covenant for the deficiency (*Rudge v. Richens*, L. R. 8 C. P. 358).
7. Assuming that X. survives the testator, the trust for X. for life is good, but as it might happen that a

child of X. should attain the specified age more than twenty-one years after the death of X. (the life in being), the gift is void for remoteness under the Perpetuity Rule (*Cadell v. Palmer*, Tudor L. C. Conv. 360).

8. Z. will not be entitled unless the land is gavelkind land, since there was no issue capable of inheriting ; had there been issue, curtesy would have attached in spite of the Married Woman's Property Act, 1882 (*Hope v. Hope*, 4 De G. M. & G. 328).
9. If the settlement is a strict settlement, the trustees can only sell with the consent of the tenant for life, and the purchaser's solicitor should see that this consent has been obtained. If the land is conveyed on trust for sale, the trustees are the proper persons to sell ; but it would be advisable to search to see if any order giving the tenant for life leave to sell has been obtained and registered as a *lis pendens* (Settled Land Acts, 1882 and 1884).
10. Yes (Conveyancing Act, 1881, s. 14, sub-s. 6). The provision of s. 2 of the Conveyancing Act, 1892, amending the above sub-section, does not apply to the case of a lease of agricultural land.
11. Notice should be given to the first mortgagee of the freehold property of the intended advance, in

order to prevent him from tacking. Notice should also be given to the insurance company, and their receipt for the notice obtained, as otherwise the mortgagee might lose the benefit of the policy by a payment by the company, or by a subsequent incumbrancer, who is unaware of the prior mortgage, obtaining priority by giving such notice (*Newman v. Newman*, 28 Ch. Div. 674).

12. These limitations are valid when the property settled comes from some person other than the husband himself (*Dommett v. Bedford*, 3 Ves. 149); but when the property comes from the husband himself the limitations will be invalid as against his trustee in bankruptcy, unless indeed the gift over was in favour of his wife, and she was, under the circumstances, a purchaser thereof by reason of her property having passed to her husband (*Higginbottom v. Holme*, 19 Ves. 88); but they will be good as against his alienees.
13. C. will take half the personal estate, and D. and E. will take the other half equally between them, for grandchildren take *per stirpes* and not *per capita* (*Re Natt Walker v. Gammage*, 37 Ch. Div. 517).
14. (1) The conveyance must be by deed. (2) The deed must be executed twelve months before the

donor's death. (3) The deed must be attested by two witnesses. (4) It must be enrolled within six months of execution in the Central Office. (5) It must take effect in possession immediately from the making thereof. (6) It must be without any power of revocation or reservation in favour of donor. The deed will, therefore, be invalidated by the donor's death within twelve months, but he may, under the Mortmain Act of 1892, convey to the local authority, making them trustees to carry out his wishes, and it will then only be necessary for the gift to be by deed and to be enrolled with the Charity Commissioners, and death within twelve months will not affect the gift. If this is not desired, the testator might make a will giving the land to trustees, and then an application could be made to the Court after the testator's death for leave to hold the land for the purposes of the charity (54 & 55 Vict. c. 73, s. 8).

15. No ; see s. 21, sub-s. 3, of the Act.

## II.—*Equity.*

16. Equity will not, as a rule, interfere where usurious interest is claimed. The maxim, however, finds an illustration in the case of a mortgage of an expectancy, and the Court will compel the party seeking its assistance to do Equity in the two

cases mentioned : (a) by compelling the borrower to pay reasonable interest (*Aylesford v. Morris*, 8 Ch. Apps. 484); and, (b) by compelling the lender to accept the amount of his loan with interest at a reasonable rate.

17. The Court will set the contract aside if there is any evidence of the absence of good faith. The mere fact of his insanity, however, is not sufficient to invalidate the contract, unless it is shown that it was known to the other party (*Imperial Loan Co. v. Stone* (1892), 12 B. 599).
18. A solicitor has a general lien for costs due to him as solicitor (co-extensive with his client's right) on papers which have come to his hands in the way of his professional employment. This is merely a passive right (*Re Boughton*, 23 Ch. D. 169). He is also entitled to a statutory and active lien under the Solicitors Act, 1860, s. 18, if he has been instrumental in recovering or preserving property. He is also entitled to an equitable lien.
19. The rules laid down in Clayton's case are that the debtor has a right of appropriating his payment to any debt he pleases at the time of making it. In default of his appropriation the creditor may appropriate it. The latter may appropriate it even

to a statute-barred debt, although if it does not discharge the whole of such debt it will not take the remainder out of the statute. If neither party appropriates it, then the law does so to the earlier debt.

20. In the four following cases : (1) If he will give a "fancy price" for the property ; (2) if a *cestui que trust* offers to sell and the trustee pays the market value, keeping him at arm's length ; or (3) if the sale is by auction, and the trustee has the leave of the Court to bid ; or (4) if he is a bare trustee (*Fox v. Mackreth*, 1 L. C. Eq. 163).
21. He may obtain a release from the bank, and if this is refused he can then bring an action in the Chancery Division for a declaration that his liability shall cease on payment into Court of the amount of the present overdraft ; or he may pay the amount and sue the debtor himself ; or he may call on the bank to sue the debtor on tendering a sufficient indemnity against costs.
22. He is under no liability if the existing members are able to satisfy the debts ; or if he has ceased to be a member for a period of one year ; or if the debt or liability in respect of which he is required to contribute was contracted since he ceased to be

a member ; or if the shares held by him are fully paid (Companies Act, 1862, s. 38).

23. He has the right to carry on a business of the same nature as that carried on by the firm, and for this purpose he may use the name of the late firm after the partnership business has been wound up, provided that the firm's name has not been sold with the goodwill. It has recently been held that he may solicit the custom of the old customers (*Pearson v. Pearson*, 27 Ch. D. 145).
24. The mortgagee can obtain sale, foreclosure, or delivery of possession by the mortgagor. The mortgagor can obtain redemption, reconveyance, or delivery of possession by the mortgagee. Those persons who, under the present practice of the Chancery Division would be the proper defendants to an action for the like relief must be served with the originating summons (Order LV. Rule 5A.)
25. The solicitor having the carriage of the order must, within seven days from the passing of the order directing taxation, lodge with the sitting taxing master a copy of the order directing taxation, a certificate that there has been no previous taxation, and a statement of the names and addresses of the

parties and their solicitors, and also of the nature of their different interests. If he fails to lodge the bill within the time allowed he forfeits the costs of drawing and copying the bill and attending the taxation (Order LXV. Rule 19c).

26. I should point out that he will not get the legal estate or the title deeds, and is liable to be postponed by a subsequent mortgage, through the operation of the doctrines of tacking and consolidation. In addition to this he is entirely subject to the first mortgagee who may sell or lease at an unfavourable time and under unfavourable terms, and thus render it necessary for the second mortgagee to pay him off in order to prevent his losing his entire security.
27. Annual rests will be required to be taken when at the time when the mortgagee enters into possession there is no interest in arrear, and no serious danger overhanging his security which his entry was intended to forestall. In other cases rests will not be directed to be taken.
28. The right of a mortgagee to his costs of a redemption or foreclosure suit rests substantially upon contract, and is not in the discretion of the Court. He will, therefore, be entitled to his costs, unless

the mortgage otherwise provides, or he has been guilty of improper conduct (*Cotterell v. Stratton*, L. R. 8 Ch. 225). The rule is, however, that the mortgagee is only entitled to his costs of the action and must make out a special case to entitle him to any other costs.

29. The principle of the doctrine of conversion is that when money is directed or agreed to be turned into land, or land is directed or agreed to be turned into money, Equity will treat that which is agreed to be done as done already, and impresses upon the property that species or character into which it is bound ultimately to be converted (*Fletcher v. Ashburner*, 1 Bro. C. C. 500). (a) The money will be treated as money. (b) There will be a reconversion, and the money will be treated as land.
30. It is a resolution passed by three-fourths of the members entitled to vote present personally or by proxy at a general meeting, of which notice specifying the intention to propose such resolution has been duly given and confirmed by a majority of such members so present at a subsequent general meeting, held at an interval of not less than fourteen days nor more than one month from the date of the first meeting (s. 51).

III.—*Common Law and Bankruptcy.*

31. The rule is that the master is liable for the torts of his servant when done by the servant in the course of his employment (*Limpus v. London General Omnibus Company*, 11 W. R. 149). (1) The master is not liable, as the act was done wilfully. (2) The master is not liable, as the act was done by the coachman whilst accomplishing some purpose of his own.
32. B. can successfully plead the Statutes of Limitation (Mercantile Law Amendment Act, 1856, s. 14). He could not do so if it can be shown that he either authorised or adopted the payments by A., as a payment by him.
33. The right is an easement of a prescriptive nature, and is an absolute and indefeasible one when there has been actual enjoyment of the access of light for the prescribed period of twenty years next before some action in which the right is questioned. It is otherwise if the right is limited by agreement in writing. It is no defence that the plaintiff has all the light necessary for the purposes of his business, and the defendant will not succeed unless he shows that for whatever purpose the plaintiff might wish to enjoy the light there would be no material interference with it (*Aynsley v. Glover*, L. R. 18 Eq. 544).

34. A contract of fire insurance is a contract of indemnity only (*Darrell v. Tibbitts*, 5 Q. B. D. 560), whilst a contract of life insurance is an absolute contract to pay a certain sum on death (*Hebdon v. West*, 32 L. J. Q. B. 85), provided that the person insuring had an insurable interest at the time of effecting the policy (*Dalby v. India and London Life Insurance Co.*, 15 C. B. 365). In the case put, the creditor therefore can recover the insurance money and retain it for his own use.
35. Where the contract is wholly executory, and one of the parties renounces the contract before the time for performance has come (*Hochster v. De La Tour*, 22 L. J. Q. B. 455), and it makes no difference if the performance is contingent upon an uncertain event (*Frost v. Knight*, 41 L. J. Ex. 78). This depends upon the terms of the contract (Sale of Goods Act, 1893, s. 31).
36. There can be no malicious prosecution unless (1) a charge has been preferred by the defendant; (2) the party charged has been brought before a judicial officer; (3) the defendant has acted without reasonable and probable cause (*Lister v. Perryman*, L. R. 4 H. L. 521); (4) malice. In an action for malicious prosecution the plaintiff must prove (1) malice; (2) absence of reasonable

and probable cause ; (3) that the criminal prosecution terminated in favour of the plaintiff (4) that the plaintiff has suffered damage. The jury determine the facts, and the Judge then decides whether they amount to absence of reasonable and probable cause.

37. (1) In this case, if the discharge is absolute and unconditional the bill is discharged. (2) This will have the effect of freeing all the three indorsers, but the drawer and acceptor remain liable (Bills of Exchange Act, 1882, ss. 55, 62).
38. He can serve the landlord or his bailiff with a declaration, with an inventory annexed, that the immediate tenant has no property in the goods, and that the same are the lodger's property, and setting forth the rent due from him, which may be paid to the landlord or his bailiff. If the distress is persisted in, the landlord is guilty of an illegal distress, and the lodger may apply to a Justice of the Peace for the restoration of his goods (Lodgers' Goods Protection Act, 1871, s. 561).
39. After the commencement of the bankruptcy the landlord can only recover *six* months' rent which has accrued due *prior* to the order of adjudication, but he may prove in the bankruptcy for the

balance due. These acts do not affect the landlord's right to distrain for rent which accrues after the order for adjudication.

40. Such a promise will not support an action unless it is supported by a new and valuable consideration (*Jakeman v. Cook*, 4 Ex. D. 26).
41. As interest has been expressly agreed for, £5 per cent. will be allowed for the purpose of dividend; and the creditor cannot receive any higher rate of interest until all the debts proved have been paid in full (Bankruptcy Act, 1890, s. 23).
42. If the defendant resides or carries on business within the District Registry, he must enter an appearance there; but if he neither resides nor carries on business in the district, he may appear either in the District Registry or at the central office (Order XII. Rules 4, 5). An appearance under protest is in the nature of a conditional appearance, and is entered by a person who intends to object to the service on him; e.g., where a person is served as a partner, but denies that he is such (Order XLVIII. Rule 7).
43. Where there are pleadings, the plaintiff may give notice of trial with the reply or at any time after

the issues are closed. Ten days' notice must be given, unless the opposite party is under an obligation to take short notice of trial, which is a four days' notice. If the plaintiff does not give notice of trial within six weeks after the close of the pleadings, the defendant may, before the plaintiff does so, give notice of trial, or may apply to the Court or Judge to dismiss the action for want of prosecution.

44. The plaintiff can apply for a writ of *ne exeat regno* when his claim is for £50 or more; the application may be made at any time, before final judgment, to a Judge *ex parte*, and must be supported by an affidavit showing: (1) That the plaintiff has a good cause of action against the defendant to the amount of £50 at least, (2) That there is probable cause for believing that the defendant is about to quit England, (3) That his absence will materially prejudice the plaintiff in the prosecution of his action.
45. He can deduct only the proportion attributable to the actual rent payable. The amount of Income Tax under Schedule A is at present eightpence in the pound, and the tenant in such a case may deduct such an amount, not exceeding one-sixth, as may be necessary to reduce it to the amount of rent payable by him (Finance Act, 1894, s. 35).

IV.—*The Principles of Law and Procedure in the Probate, Divorce, and Admiralty Division of the High Court of Justice, Ecclesiastical and Criminal Law and Practice, and Proceedings before Justices of the Peace.*

PAPER A.

46. There are two modes of procedure for this purpose. (1) By subpœna, which may be obtained by a registrar's order requiring the person to produce the document. (2) By motion or petition to the Court, supported by affidavit, for an order for such purpose. The penalty for disobedience is attachment (Probate Acts, 1857 and 1858).
47. By section 11 of the Customs and Inland Revenue Act, 1885, a stamp duty is imposed on the annual profits of all real and personal property belonging to a corporate body. There are numerous exemptions specified in the Act; e.g. property belonging to Government, property applied for the benefit of the public or for religious, charitable, or educational purposes, capital of a trading corporation.
48. He must make an affidavit of the facts, and if the fact of death is certain the registrar will allow the grant to issue. If the proof of death is presumptive only, an application must be made to the Court

by motion, and on sufficient evidence of death being adduced, the Court will fix the date of death.

49. If he convicts the husband of an aggravated assault and is satisfied that the future safety of the wife is in peril, the magistrate may order that the wife shall no longer be bound to cohabit with her husband, and such order shall have the force and effect of a decree of judicial separation on the ground of cruelty.
50. A summary proceeding for the adjudication of any incidental subject arising during or after the progress of a matrimonial suit ; *e.g.* to decide the question of jurisdiction of the Court after an appearance by the respondent under protest. Any party who has entered an appearance in the ordinary way may apply on summons to the registrar to be heard on any collateral question arising in the suit, and on leave being granted he must file his act on petition in the registry within eight days.
51. A decree for a judicial separation may be reversed on the ground that it was obtained in the absence of the petitioner, and that, (if desertion was the ground of the decree,) there was reasonable ground for such desertion (Probate Act, 1857, s. 23).

52. In all actions for damage by collision whether brought *in rem* or *in personam*. The names of the vessels and their masters ; the time and place of the collision ; the wind, weather, and tide ; the course, speed, and lights of each vessel ; what measures were taken to avoid the collision ; the parts of each vessel which first came into contact.
53. By section 6 of the Admiralty Court Act, 1861, any owner, consignee, or assignee of a bill of lading of any goods which are carried into any port in England or Wales may bring an action in the Admiralty Court, unless it is shown that some owner was domiciled in England when the suit was commenced.
54. The tithe owner must wait until the rent charge is in arrear for not less than three months, and may then apply to the County Court for an order for payment, which order can be enforced by distress. Not more than two years' arrears are recoverable (Tithe Act, 1891).

## PAPER B.

55. (1) The commencement, which states the venue and the formal presentment ; (2) the body of the statement, which sets out clearly the precise crime charged ; and (3) the conclusion which formally

states the crime to be against the peace or against the statute. The accused may be found guilty of an attempt to commit the crime charged; or of manslaughter, on a charge of murder; or embezzlement, on a charge of larceny, and *vice versa*; or, on a charge of false pretences, he may be convicted of the misdemeanour though the evidence proves larceny.

56. Under the Small Tenements Recovery Act, 1838, in the case of a tenancy at will, or for a term not exceeding seven years at a rent not exceeding £20 per annum, and ended or duly determined by notice to quit, where the tenant refuses to give up possession the landlord may serve a written notice (by leaving it with and reading it over to the occupier or some person on the premises, or in case of vacant possession by posting it on a conspicuous part of the premises) of his intention to apply to the justices, unless possession is given up within seven clear days after the notice. The landlord then lodges his complaint before two justices, who can issue a warrant to the constables, commanding them after twenty-one but within thirty days to forcibly eject the wrongdoer.
57. Indictment for a public nuisance at common law or summarily by the justices under the Highway

Acts. In cases where the parties charged dispute their liability, the justices will direct an indictment to be preferred.

58. An appeal lies whenever the offender has been sentenced to imprisonment without the option of a fine, unless the offender pleaded guilty or admitted the truth of the information, or the imprisonment is for failure to comply with an order to pay money, or to find sureties, or to enter into recognisances, or to give any security.
59. She can make an application to a justice of the peace where she resides for a summons against the alleged father to appear before the justices. This application may be made either (1) before the birth of the child ; or (2) within twelve months after the birth ; or (3) at any time after the birth, if the alleged father has within twelve months from that time paid anything for the child's maintenance ; or (4) at any time within twelve months after the father returns to England if he had ceased to reside in England within twelve months of the birth. On the hearing the father is entitled to appear, and the justices can order a weekly payment to the mother not exceeding five shillings until the child attains thirteen or sixteen or dies under that age. The mother's evidence must,

however, be corroborated in some material particular to fix the paternity on the man.

60. He is guilty of a misdemeanour, and is liable to imprisonment with or without hard labour for two years (Debtors Act, 1869). The Bankruptcy Act, 1883, specially enacts that he may be prosecuted after his discharge.

## APPENDIX E.

### QUESTIONS SET AT THE SOLICITORS' HONOURS EXAMINATION, APRIL, 1895.

FIRST DAY, 10 A.M. to 1.30 P.M.

#### *Preliminary.*

- A. What is *now* your age?
- B. Where, and with whom, did you serve your clerkship?

#### I.—*Conveyancing.*

- 1. To what extent are a lessee and assignee respectively liable for the covenants contained in a lease after they have assigned the same, and how does this liability respectively arise?
- 2. Your client has purchased some freehold houses which are demised by numerous leases for long terms at ground rents, and instructs you to convey the same to him. Give the heads of the conveyance you would prepare.
- 3. A testator devises his freehold and leasehold estates to trustees upon trust for sale, directing the proceeds to be invested and the income thereof to be paid to

his widow, and on her death the whole to be divided between his children. The trustees are expressly empowered to postpone the sale at their discretion. Explain whether the Settled Land Act applies thereto, and, if so, who is entitled to exercise the powers conferred by that Act.

4. Explain (1) whether a third mortgagee, who has advanced his money without notice of a second mortgage, can take a transfer of the first mortgage and tack his own mortgage to it, when, prior to the transfer, he has received notice of the second mortgage; and (2) whether, when a mortgage is made to secure a present loan and further advances, such further advances, made after notice of a second mortgage executed with notice of the first mortgage, have priority over the second mortgage.
5. What covenants and conditions are excepted from the relief against forfeiture of leases provided by the Conveyancing and Law of Property Act, 1881? Explain shortly the relief given by the Act against the forfeiture of leases and the effect of omitting from a lease the usual power for re-entry on non-payment of rent or non-performance of covenants.
6. What alteration was made by the Wills Act in reference to any dealing by a testator with land he had devised by his will? If land is devised by will in trust for sale, and the testator afterwards

agrees to sell the land, but dies before the sale is completed, who will be entitled to the purchase-money?

7. Explain the alterations which have been effected by the Married Women's Property Act, 1893.
8. What are the provisions of the Trustee Act, 1893, relating to the investment of trust funds on mortgage of land?
9. Your client proposes to enter into articles of partnership, and consults you as to the several matters to be considered in reference to the arrangement to be made between himself and his intended partner. Specify the several points to which you would direct your client's attention.

FIRST DAY, 10 A.M. to 1.30 P.M.

II.—*Equity.*

10. Upon what is the equity of part performance to take a case out of the Statute of Frauds founded, and what are the principal limitations of such equity?
11. Where money is bequeathed to be laid out in the purchase of land to be settled to uses, which either wholly or partially fail to take effect, to whom will the undisposed of interest in the money, or estate if purchased, result, and in what quality?
12. How is the rule as to conversion of wasting property

to be applied when there is no prohibition in the will against conversion, but merely a power to delay conversion, and in the meantime, to maintain the investment as at the testator's death?

13. A. is entitled to an interest in funds held by B. and C., trustees, and settles such interest. B. is aware of the settlement, C. is not. A. subsequently proposes to mortgage the same interest without disclosing the settlement, and on inquiry as to incumbrances, B. returns an evasive answer, and C. replies that he knows of no incumbrance. The mortgage is then completed, and notice given to B. and C. B. dies, and another trustee is appointed. Are the parties claiming under the settlement or mortgage entitled to priority?
14. What is in equity the effect of appointing a debtor of the testator as executor? A. being indebted to B., pays certain instalments, after which B. declines to take any more, and other transactions proceed on this footing, and B. dies appointing A. sole executor. What is the effect on the debt?
15. Under what circumstances is a solicitor entitled to a charging order on property recovered or preserved? What is the nature of such right, and how is the order obtained? If the solicitor be changed before trial, how are his rights affected?
16. A. and B., trading in partnership, induce C. to accept bills of exchange by representing them as

drawn to meet purchases of goods on the joint account of A., B., and C.; but the goods have not really been bought. A. and B. become bankrupt, and C. is compelled to pay the bills. What remedies has he?

17. Under what circumstances will the Court interfere or decline to interfere at the instance of certain shareholders as to alleged rights arising out of matters of internal regulation of a company?
18. A testator dies solvent, but considerably indebted. It appears that he and his wife had borrowed certain sums on mortgage of the latter's reversionary interest under a settlement. What course would you advise the widow and executors to take, and for what amount would you take probate?

FIRST DAY, 2.30 to 6 P.M.

III.—*Common Law and Bankruptcy.*

19. In what cases is there, under the Sale of Goods Act, 1893, an implied warranty of the quality of goods sold?
20. A., for an illegal consideration, gives B. a promissory note payable to B. or order. B. endorses it over to C., who sues A. upon it. In trying the question whether or not C. is a *bonâ fide* holder for value, what are the presumptions of law, and what will it be for C. and A. respectively to show?

Would your answer be the same if the original consideration had been void, but not illegal?

21. A. hires a horse and carriage from B. Owing to the negligent driving of A.'s coachman, C., in the course of his employment, the horse and carriage are injured, and D., a person passing along the highway, is run against and hurt. Have B. and D., or has either of them, any, and if so what, remedy against A. and C., or either of them?
22. In which of the following cases does the 4th section of the Statute of Frauds require the promise to be in writing: (a) A. promises C. to pay B. a debt due from C. to B. (b) A. promises B. that, in consideration of B. giving a receipt in full to C., A. will pay B. a debt due from B. to C. (c) A. and B. come to C.'s shop together; A. buys, and B. promises C., "If A. does not pay you I will." (d) In a similar case, B. says to C., "Let A. have the goods, I will see you paid."
23. A. and Company, a firm of printers, sue B. for the cost of printing a newspaper of which they suppose him to be the sole proprietor. B. has no defence, and judgment is signed against him by consent. A. and Company afterwards discover that, at the time the work was done, C. was a partner of B. and joint proprietor with him of the newspaper. They apply, with B.'s consent, for an order that the judgment be set aside, and that the writ be

amended by adding C. as a defendant in the action. What will be the result of the application, and on what grounds?

24. Under what circumstances will an action for deceit lie? Can a man be made liable in such an action upon a statement founded upon a belief which is destitute of all reasonable grounds, or which the least inquiry would immediately correct?
25. What is meant by an "open policy" of marine assurance? How are the amounts payable by the underwriters under such a policy arrived at: (A) If the policy is on the ship, and there is a partial loss? (B) If the policy is on goods, and there is (a) a total loss, (b) a partial loss?
26. A. grants a lease for ninety-nine years, at £100 per annum, to B., who assigns to C., who, in consideration of an advance of £2,000, demises to D. for the residue of the term, except three days, at a peppercorn. C. becomes bankrupt, and his trustee, wishing to disclaim, brings A., B., and D before the Court. What are the rights of B. and D. respectively?
27. A client tells you that he wants to have his London house decorated by a foreign art-worker who resides and carries on business abroad. How would you advise him to protect himself against defects in workmanship being discovered after the completion of the work; and of what difficulties

would you warn him in the event of his having to enforce any rights under the contract (a) in an English, (b) in a foreign court?

FIRST DAY, 2.30 to 6 P.M.

IV.—*The Principles of Law and Procedure in the Probate, Divorce, and Admiralty Division of the High Court of Justice, Ecclesiastical and Criminal Law and Practice, and Proceedings before Justices of the Peace.*

28. A. B. executed a memorandum in the following form: "The enclosed papers Nos. 1, 2, 3, 4, 5, and 6 were signed by A. B., the testator, in the joint presence of us, who thereupon signed our names in his and each other's presence.—A. B. Witnesses, C. D., E. F." As a matter of fact, the witnesses saw A. B. sign the memorandum, but not the numbered papers, which were signed by A. B. only, and purported to deal with his property. The memorandum and numbered papers were found after A. B.'s death in an envelope indorsed in his handwriting "My last will." Will the Court grant probate of all or any of the documents? State reasons.
29. How must alterations in wills be attested? A testator, after the execution of his will, by an unattested alteration purported to give "£100 to each of my executors." In the body of the will he

gave a legacy of £1,000 to A., one of his executors, and in a duly executed codicil he recited that he had bequeathed to A. £1,100. Will the interlineation be admitted to probate?

30. A husband has left his wife on the ground of her alleged adultery, and the lady, who is anxious to prove her innocence, comes to you for advice. What course would you recommend her to adopt, and if it be necessary to take proceedings, what form would they assume?
31. What authority has the Court in divorce cases over the children of the marriage, and up to what age can this authority be exercised?
32. A vessel is totally lost, but part of the cargo and the crew are saved by a passing ship, which in due course is awarded salvage. Does any liability in respect of the salvage attach (a) to the owners of the lost vessel; (b) to the owners of the cargo?
33. A tug whilst towing a vessel comes into collision with and damages a third vessel. The tow, which is insured by a marine policy against collisions with other ships, avoids colliding with the third vessel. What, if any, are the liabilities (a) of the owners of the tow; (b) of the underwriters?
34. The incumbent of a benefice wishes to save trouble to his executors after his death in respect of dilapidations to the parsonage house and outbuildings. Is there any way in which his desire can be effectuated?

35. A., having a wife living, went through the ceremony of marriage with another woman, who was within the prohibited degrees of affinity, so that the second marriage would in any event have been void under the marriage laws. Can A. be convicted upon an indictment for bigamy?
36. Your client has been appointed executor under a will jointly with the widow of the testator, who had been engaged in business. The will contains the ordinary trusts for realisation of the estate and in favour of the widow and children, who are minors, but no provision enabling the executors to carry on the testator's business, which cannot be wound up except at a loss. The widow is desirous of continuing the business with a view of supporting herself and her children, and your client wishes to meet her views as far as he can, but is apprehensive that by so doing he may involve himself and the estate in a loss. At the same time he is anxious, if possible, to carry out the will of his deceased friend, who evidently intended that his wife should not have sole control of the property. Would you advise your client under the circumstances to accept or renounce probate? Give the reasons for your advice.

ANSWERS TO THE QUESTIONS SET AT THE  
SOLICITORS' HONOURS EXAMINATION,  
APRIL, 1895.

I.—*Conveyancing*.

1. The liability of the lessee upon the covenants in the lease are not affected by any assignment of the lease owing to the *privity of contract* which exists between him and the original lessor. The assignee on the contrary is not liable to the original lessor on any covenant after assignment, as his liability only arises from the *privity of estate* which exists between him and the lessor, and which ceases on the assignment.
2. (1) Date. (2) Parties : (a) vendor ; (b) purchaser. (3) Recitals of seisin, agreement for sale, and as to muniments, if necessary. (4) Testatum that in pursuance of agreement and in consideration of £ (the receipt, etc.) the vendor, as beneficial owner, conveys to the purchaser parcels mentioned in first column of schedule. (5) Habendum, subject to leases in second column of schedule. (6) Covenants, acknowledgment, etc., as may be necessary. First schedule containing parcels : second schedule containing (a) description of leases ; (b) lessee's name ; (c) term ; (d) rent.

3. The Settled Land Act, 1882, does apply (s. 63). The widow is tenant for life because by implication she is entitled to the income until sale; but notwithstanding this, under the Settled Land Act, 1884 (ss. 6, 7), she cannot sell without an order of the Court, which must be registered as a *lis pendens*. The trustees, however, having a trust for sale, may sell without any leave or consent.
4. (1) Yes, for he had no notice when he advanced the money and notice after is immaterial (*Marsh v. Lee*, 1 L. C. Eq. 494). (2) No (*Hopkinson v. Rolt*, 9 H. L. Cas. 514).
5. The section in the Act does not extend to (1) covenants against assigning or underletting; (2) conditions relating to forfeiture on bankruptcy or execution, but by the provisions of s. 2 of the Conveyancing Act, 1892, relief will in certain cases be given; (3) covenants in a mining lease as to inspection of books by the lessor; or (4) conditions for re-entry on non-payment of rent. The relief given by the Act is to prevent the landlord proceeding to enforce a right of re-entry or forfeiture before he has given the lessee a written notice specifying the particular breach of which he complains, and requiring him to make good the same and pay a money compensation, and the tenant has neglected for a reasonable

time to comply with this notice. The landlord may then proceed to enforce his right of entry ; but while so proceeding the tenant can apply to the Court for relief, and obtain the restoration of his lease on such terms as the Court may impose (*Rogers v. Rice*, 1892, 2 Ch. 170).

6. It is provided that no conveyance made or other act made or done after the will is executed, unless amounting to a revocation, is to prevent the operation of the will with respect to property of which the testator has power to dispose at the time of his death. Unless the will shows a contrary intention, the purchase-money will, in such a case, form part of the testator's residuary personal estate, and not pass to the devisee (Wills Act, 1837, s. 23).
7. Since the Act, contracts entered into by a married woman bind (1) her separate estate, whether she was entitled to any at the time of contracting or not ; (2) separate estate acquired after the date of the contract ; (3) property which she may afterwards acquire when discoverd. The effect of the anticipation clause is somewhat altered, it being provided that when a married woman is plaintiff, she may be ordered to pay the defendant's costs out of her separate estate, even though restrained from anticipation (*Hood-Barrs v. Cathcart*). The

will of a married woman made during coverture, whether possessed of separate property or not at the time of making the will, need not be re-executed or republished after the death of the husband, but will speak from her death (*Re Price*, 28 Ch. D. 709).

8. Trustees under the Act may invest in real securities, and also in mortgages of leaseholds if the term has still two hundred years to run, and the rent does not exceed one shilling, and the condition of re-entry is confined to nonpayment of rent. Before advancing the trust money, a trustee must have the property valued by an able and practical surveyor or valuer, instructed independently of any owner of the property, and must not advance more than two-thirds of the value of the property, as stated in the surveyor's report. The title must be properly investigated, but as long as the same care is taken as would have been taken had the trustee been advancing his own money, he will not be liable for any loss which would not have been incurred had the title been more closely investigated.
9. I should direct his attention to the following points:  
(1) The name or style of the firm, and the scope of the business; (2) the amount of the capital, which is usually treated as a loan to the firm at

interest ; (3) the share of the profits, and how they are to be drawn ; (4) the time of the commencement of the partnership ; (5) the duration of the partnership, though this is not necessarily for a fixed period ; (6) whether or not each partner is intended to give his whole time to the business ; (7) provisions with regard to dissolution by death or otherwise. Having obtained my client's instructions upon these questions, I should prepare a draft of the proposed deed and send it to him for his approval, with a letter explaining fully the effect of the various clauses.

## II.—*Equity.*

10. The doctrine is founded upon the principle that the Statute is not to be made a cloak for fraud. The principal limitations are (1) ancillary or introductory acts are not sufficient, *e.g.* delivery of the abstract ; (2) the act must be unequivocal and exclusively referable to the agreement (*Alderson v. Maddison*, 50 L. J. Q. B. 456) ; (3) the agreement must be cognisable in equity, independently of part performance ; (4) specific performance must still be possible ; (5) the act must be such as to render non-performance a hardship.
11. It will result to the residuary legatees or next of kin (*Ackroyd v. Smithson*, 1 L. C. Eq. 949), and they

will take it as they find it ; *i.e. as personalty* if, the failure being total, the money is not invested in land at all ; *as realty* if, the failure being total or partial, the money has been actually laid out in land.

12. The rule is based on the presumed intention of the testator, that the perishable property shall be enjoyed by persons in succession. This presumption, however, may be rebutted by a sufficient indication of a contrary intention in the will itself, but the burden of proof rests upon the person who says it is not to be applied (*MacDonald v. Irvine*, 8 Ch. D. 101). In this case the ordinary rule will not apply, as the testator has given the trustees discretion either to sell or retain *in specie* (*Gray v. Siggers*, 15 Ch. D. 74).
13. This question states the facts in *Ward v. Duncombe*, 62 L. J. 881, and it was held that the parties claiming under the settlement were entitled to priority over the mortgage.
14. At law the debt was extinguished because the executor could not sue himself, but in equity the executor became a trustee of the debt for the beneficiaries. These were the facts in *Strong v. Bird*, 30 L. T. 745, and it was held that as there

was evidence of a continuing intention on the part of B. to forgive the debt, the debt was released.

15. The Court may make such an order when property has been recovered or preserved through his instrumentality (Solicitors Act, 1860, s. 28). By virtue of the order the solicitor is entitled to an active lien upon such property, and this charge cannot be defeated, except by a *bonâ fide* purchaser for value without notice. The order is obtained either by petition or summons. The solicitor first employed may still get a charging order (*Re Wadsworth*, 29 Ch. D. 517), but the solicitor on the record has priority over him.
16. This debt having been incurred by fraud, C. can prove in the bankruptcy of A. and B. either against the separate or joint estates. The facts are similar to those in *Re Collie, Ex parte Anderson*, L. J. Bk. 103, where the creditor having proved against the joint estate was allowed to withdraw his proof and prove instead against the separate estates. A discharge in bankruptcy will not free A. and B. from liability as they were both parties to the fraud.
17. Where the question is one which does not depend on the will of a majority of shareholders,

the Court will only interfere to prevent the violation of a right; *e.g.* to prevent a breach of the conditions contained in the memorandum of association. Where the question depends on the will of the majority, the Court will only interfere (1) where the majority proposes to do something which is illegal or would be a fraud on the minority, or (2) to give effect to the will of the majority.

18. The presumption in this case is that the sums were borrowed for the husband's purposes, and I should advise the widow that she is entitled to be indemnified. I should advise the executors to administer the estate, deducting the mortgage and other debts from the gross value and only paying duty on the net value.

### III.—*Common Law and Bankruptcy.*

19. (1) Where the buyer, expressly or by implication, tells the seller the particular purpose for which the goods are required, showing that he relies on his judgment, the goods being in the seller's course of business to supply, there is an implied warranty that the goods are fit for such purpose. (2) Where goods are bought by description there is an implied warranty that they are of a merchantable quality; but, if they have been previously examined by the

purchaser, there is no implied warranty as regards defects afterwards discovered which the examination ought to have revealed. (3) An implied warranty as to quality or fitness for a particular purpose may be annexed by the usage of trade. (4) The Sale of Goods Act, 1893, particularly reserves all warranties given by special statutes; *e.g.* Chain Cables and Anchors Act, 1874.

20. The presumptions of law under these circumstances are (1) that C. did not give value for the note, but (2) that he was ignorant of the fraud or illegality. It will be for C. to show that he gave value for the note, but for A. to show that C. knew that the note was tainted in its origin. If C. proves his point and A. fails to prove his, then C. can recover (5 & 6 Will. IV. c. 41). Where the consideration is void by statute C. can recover, and it matters nothing that he was aware of the circumstances under which the note was originally given, nor does it lie upon him to show that he gave value for the note, though he could not recover if it were proved that he gave none (*Lilley v. Rankin*, 56 L. J. Q. B. 248, and 8 & 9 Vict. c. 109).
21. B. has a right of action against A. for damages for breach of contract as in a bailment for reward the bailee is liable for ordinary neglect (*Coupé Com-*

- pany v. Maddick*, 60 L. J. Q. B. 676). He would have no right of action against C., as there is no privity of contract between B. and C. D. has a right of action against A. on the principle *respondet superior* (*Limpus v. London General Omnibus Company*, 11 W. R. 149), and against C. in tort.
22. (a) This need not be in writing, as the promise is not made to the creditor (*Eastwood v. Kenyon*, 11 A. and E. 446). (b) Apparently this promise need not be in writing (*Goodman v. Chase*, 1 B and Ald. 297). (c) This promise is a collateral undertaking and must be in writing (*Birkmyr v. Darnell*, 1 Sm. L. C. 310). (d) This amounts to a fresh undertaking and need not be in writing (*Mountstephen v. Lakeman*, 7 H. L. 17).
23. The application will fail, on the ground that the plaintiff's rights against the co-contractor have been extinguished by the judgment (*Hammond v. Schofield*, 60 L. J. Q. B. 539).
24. The plaintiff must satisfy the Court (1) that the statement was false to the knowledge of the defendant, or that he made it recklessly, careless whether it was true or false ; (2) that the plaintiff acted on the statement ; (3) that he suffered damage (*Derry v. Peck*, 14 App. Cas. 337). A man cannot be

made liable in an action for deceit if he believes the statement to be true, except in cases coming within the Directors' Liability Act, 1890, or where the statement is reckless within the rule laid down in *Derry v. Peck*.

25. An open policy is one in which there is no valuation of the property insured, which remains to be estimated in case of loss. (A) The underwriter must pay a sum which bears the same proportion to the sum insured as the damage bears to the ship's value. (B) (a) The prime cost of the goods not exceeding the amount insured. (b) The loss is calculated by comparing the difference between the gross proceeds realised by the goods on their arrival and the price they would have fetched had they not been damaged.
26. The rights of A. and B. are not affected by the disclaimer. B. therefore remains liable on the covenants in the lease (*Hill v. East and West India Dock Company*, L. J. Ch. 842). B. may, however, if he wishes apply to the Court for an order that the lease shall vest in D. subject to the same liabilities and obligations as the bankrupt was subject to (Bankruptcy Act, 1883, s. 65), and D. may apply that the order shall state that he is simply an assignee from the filing of the bankruptcy petition (Bankruptcy Act, 1890, s. 13).

27. I should advise him to make some special provision for keeping in hand a portion of the contract price to meet such a contingency. (a) The defendant being out of the jurisdiction, there would be a difficulty in enforcing a judgment obtained in an English Court ; (b) the plaintiff might be harassed by the foreign procedure, and might possibly be compelled to incur great expense in order to obtain the attendance of witnesses.

IV.—*The Principles of Law and Procedure in the Probate, Divorce, and Admiralty Division of the High Court of Justice, Ecclesiastical and Criminal Law and Practice, and Proceedings before Justices of the Peace.*

28. These documents will not be admitted to probate as they are not sufficiently identified by the memorandum (*Re Garnett*, 63 L. J. P. 82).
29. Unless executed in like manner as is required for a will alterations will have no effect, but they will be deemed to be duly executed if the signature of the testator and of the witnesses be made in the margin or some part of the will opposite to such alterations, or at the foot or the end of or opposite to a memorandum referring to such alteration and written at the end or some other part of the will (Wills Act, 1837, s. 21). In the case mentioned the interlineation will be admitted to probate, as the

codicil shows that it was in the will before the codicil was executed.

30. I should advise her to write him a friendly letter, with the object of inducing him to reconsider his action and requesting him to return to cohabitation. If this is ineffective to bring about a reconciliation, she should commence an action for restitution of conjugal rights.
31. In suits for judicial separation, nullity, or dissolution, the Court has power to make orders with respect to the custody, maintenance, and education of the children of the marriage (20 & 21 Vict. c. 85, s. 35 ; 22 & 23 Vict. c. 61, s. 4). The jurisdiction of the Court extends up to the age of twenty-one in all cases (*Thomasset v. Thomasset*, 63 L. J. P. 140).
32. (a) Where no part of the vessel is saved, salvage is not payable by the owners of the vessel (*The Coromandel*, Sw. 205). The owners of the cargo are liable to pay salvage for lives saved (*The Fusileer*, 10 L. T. Rep. N. S. 699).
33. (a) If the tug is to blame the tow will be liable, on the principle that the owners are liable for the marine tort of their servant. (b) The underwriters are liable to the tow under the Collision Clause for the amount which the tow pays (*London*

*Steam Ship Company v. Grampian Steam Ship Company*, 59 L. J. Q. B. 549).

34. He may apply for an inspection and survey by the diocesan surveyor. If he executes the repairs in accordance with the diocesan surveyor's requirements, he will be entitled to a certificate to this effect, and the certificate will free him (and if he dies, his estate) from all liability for repairs for five years (Dilapidations Act, 1871).
35. Yes, because he has gone through a form of marriage recognised by the law as capable of producing a valid marriage; and it matters not that special circumstances constitute a legal disability in the particular parties (*R. v. Allen*, 20 W. R. 756).
36. I should point out to him the responsibility which he undertakes by accepting the trust, but if he is really anxious to carry out the will of his deceased friend, I should advise him to accept probate. The business will then vest in him, and it will be his duty to realise it in accordance with the instructions in the will. For this purpose he should have the business valued, and sell it to the widow as a going concern. Should there be any difficulties in the matter, I should advise him, in the capacity of trustee, to obtain the direction of the Court.

## APPENDIX F.

### LIST OF PRINCIPAL TEXT BOOKS.

ON the following pages is a list of the principal text books mentioned in this work (see pp. 39, 43, 63, and 74), and in order to make this list as useful as possible, the books referred to have been classified under various heads. Under the first head the student will find all the works which have been recommended for the Intermediate and Final Examinations of the Incorporated Law Society. This course of reading is designed to give the reader a general acquaintance with the fundamental principles of the law of England. Most of the works deal with the *theory* rather than the *practice* of the law, and they should therefore be supplemented by some practical works, such as are mentioned under the second head. The third head contains those books which have been recommended to the student for honours, and should also be read for the purposes of the final LL.B. Lastly, the student will find, under the fourth head, a course of reading for the Intermediate LL.B. (Pass and Honours).

It should be noticed that the price given in any case is the price at which the book is published, and that a discount of twenty per cent. can be obtained for cash.

# I.—COURSE OF READING FOR THE INCORPORATED LAW SOCIETY'S EXAMINATIONS.

Those books, which are distinguished by an asterisk, only present from a different point of view information contained in other works here enumerated, and may therefore be omitted if the student thinks it desirable.

| NAME OF WORK.                                    | AUTHOR.           | PUBLISHER.                         | LAST EDITION<br>AND DATE OF<br>PUBLICATION. | PUBLISHED<br>PRICE. |
|--------------------------------------------------|-------------------|------------------------------------|---------------------------------------------|---------------------|
| (i.) <i>Intermediate.</i>                        |                   |                                    |                                             |                     |
| Blackstone's Commentaries on the Laws of England | Stephen (Editor). | Butterworths ...                   | 12th (1895)                                 | £ s. d.<br>4 4 0    |
| Guide to Stephen's Commentaries ...              | Gibson ...        | " Law Notes "<br>Publishing Office | 9th (1893)                                  | 0 18 0              |
| (ii.) <i>Final.</i>                              |                   |                                    |                                             |                     |
| Principles of the Common Law                     | Indermaur         | Stevens & Haynes                   | 6th (1891)                                  | 1 0 0               |
| * Manual of Common Law ...                       | J. W. Smith       | Stevens ...                        | 10th (1887)                                 | 0 14 0              |
| * Commentaries on the Common Law                 | Broom ...         | Sweet & Maxwell                    | 8th (1888)                                  | 1 5 0               |
| Epitome of Common Law Cases ...                  | Indermaur         | Stevens & Haynes                   | 7th (1891)                                  | 0 6 0               |
| Principles of Equity ...                         | Snell ...         | " "                                | 11th (1894)                                 | 1 1 0               |
| * Manual of Equity Jurisprudence                 | J. W. Smith       | Stevens ...                        | 14th (1889)                                 | 0 12 6              |
| * Outlines of Equity ...                         | Haynes ...        | Sweet & Maxwell                    | 5th (1880)                                  | 0 14 0              |
| Epitome of Conveyancing and Equity Cases         | Indermaur         | Stevens & Haynes                   | 7th (1891)                                  | 0 6 0               |
| Outline of the Law of Property ...               | Raleigh ...       | Oxford (Clar. Press)               | 7th (1890)                                  | 0 7 6               |

# I.—COURSE OF READING, ETC.—*continued.*

| NAME OF WORK.                                        | AUTHOR.          | PUBLISHER.        | LAST EDITION<br>AND DATE OF<br>PUBLICATION. | PUBLISHED<br>PRICE. |
|------------------------------------------------------|------------------|-------------------|---------------------------------------------|---------------------|
| Principles of the Law of Real Property ...           | Joshua Williams. | Sweet & Maxwell   | 17th (1892)                                 | £ s. d.<br>1 1 0    |
| Principles of the Law of Personal Property ...       | Joshua Williams. | " "               | 14th (1894)                                 | 1 1 0               |
| *Modern Law of Real Property ...                     | Goodeve          | " "               | 3rd (1891)                                  | 1 1 0               |
| *Modern Law of Personal Property...                  | Goodeve          | " "               | 2nd (1892)                                  | 0 18 0              |
| Practical Introduction to Conveyancing ...           | Elphinstone      | " "               | 4th (1894)                                  | 0 14 0              |
| Law of Bankruptcy ...                                | Baldwin ...      | Stevens & Haynes  | 6th (1890)                                  | 1 0 0               |
| *Principles of Bankruptcy ...                        | Ringwood         | " "               | 5th (1891)                                  | 0 10 6              |
| Epitome of the Laws of Probate and Divorce ...       | Harrison         | " "               | 4th (1891)                                  | 0 7 6               |
| *The Law of Probate ...                              | Dixon ...        | Reeves & Turner   | 2nd (1884)                                  | 0 15 0              |
| *The Law and Practice in Divorce ...                 | Dixon ...        | " "               | 2nd (1891)                                  | 1 0 0               |
| *The Law and Practice in Divorce ...                 | Browne & Powles  | " "               | 5th (1889)                                  | 1 6 0               |
| Summary of the Law of Admiralty ...                  | E. Smith         | Sweet & Maxwell   | 4th (1892)                                  | 0 10 0              |
| Summary of Ecclesiastical Law ...                    | E. Smith         | Stevens & Haynes  | 4th (1895)                                  | 0 8 0               |
| Sketch of the Criminal Law... ..                     | W. S. Shirley    | " "               | 2nd (1889)                                  | 0 7 6               |
| *Principles of the Criminal Law ...                  | Harris           | Stevens & Sons... | 6th (1892)                                  | 1 0 0               |
| Elementary Treatise on Magisterial Law ...           | W. S. Shirley    | Stevens & Sons... | (1881)                                      | 0 6 6               |
| Practice for Justices of the Peace ...               | Stone            | Sweet & Maxwell   | 9th (1882)                                  | 1 5 0               |
| Manual of Practice ...                               | Indermaur        | Stevens & Haynes  | 6th (1894)                                  | 0 14 0              |
| *Elementary View of the Proceedings in an Action ... | Foulkes ...      | Sweet & Maxwell   | 3rd (1884)                                  | 0 7 6               |

## II.—BOOKS ON PRACTICE.

| NAME OF WORK.                                       | AUTHOR.       | PUBLISHER.        | LAST EDITION<br>AND DATE OF<br>PUBLICATION. | PUBLISHED<br>PRICE. |
|-----------------------------------------------------|---------------|-------------------|---------------------------------------------|---------------------|
| Precedents in Conveyancing ...                      | Prideaux ..   | Stevens & Sons... | 16th (1895)                                 | £ s. d.<br>3 10 0   |
| Abstract of Title ...                               | Comyns ...    | Reeves & Turner   | 4th (1884)                                  | 0 10 6              |
| Students' Precedents in Conveyancing                | Clark ...     | Sweet & Maxwell   | (1893)                                      | 0 4 6               |
| Elphinstone and Clark on Searches ...               | ... ..        | " "               | (1889)                                      | 0 10 6              |
| Wolstenholme's Conveyancing and Settled<br>Acts ... | ... ..        | Clowes & Sons...  | 7th (1895)                                  | 1 0 0               |
| Manual of Chancery Procedure ...                    | Underhill ... | Butterworths ...  | (1881)                                      | 0 10 6              |

## III.—BOOKS TO BE READ BY HONOURS STUDENTS.

| NAME OF WORK.                                | AUTHOR.          | PUBLISHER.                       | LAST EDITION<br>AND DATE OF<br>PUBLICATION. | PUBLISHED<br>PRICE. |
|----------------------------------------------|------------------|----------------------------------|---------------------------------------------|---------------------|
| Principles of the English Law of Contract... | Anson ...        | Oxford (Clar. Press)             | 7th (1893)                                  | £ s. d.<br>0 10 6   |
| Law of Torts ...                             | Pollock ...      | Stevens & Sons...                | 4th (1895)                                  | 1 1 0               |
| Compendium of the Law of Torts ...           | Fraser ...       | Reeves & Turner                  | 3rd (1895)                                  | 0 6 0               |
| Leading Cases in the Common Law              | Shirley ...      | Stevens & Sons...                | 4th (1891)                                  | 0 16 0              |
| Leading Cases in Modern Equity               | Brett ...        | Clowes & Sons...                 | 2nd (1891)                                  | 0 16 0              |
| Law of Real Property ...                     | Challis ...      | Reeves & Turner                  | 2nd (1892)                                  | 1 0 0               |
| Leading Cases on Real Property               | Tudor ...        | Butterworths ...                 | 3rd (1879)                                  | 2 12 6              |
| Leading Cases in Equity                      | White & Tudor... | Sweet & Maxwell                  | 6th (1886)                                  | 4 4 0               |
| Leading Cases in Common Law                  | J. W. Smith      | " "                              | 9th (1887)                                  | 3 15 0              |
| Students' Statute Law ...                    | Gibson ...       | " Law Notes<br>Publishing Office | 2nd (1893)                                  | 1 8 0               |

#### IV.—COURSE OF READING FOR THE INTERMEDIATE LL.B.

Those works distinguished by an asterisk need only be read by the student for Honours.

| NAME OF WORK.                                      | AUTHOR.           | PUBLISHER.        | LAST EDITION<br>AND DATE OF<br>PUBLICATION. | PUBLISHED<br>PRICE. |    |    |
|----------------------------------------------------|-------------------|-------------------|---------------------------------------------|---------------------|----|----|
|                                                    |                   |                   |                                             | £                   | s. | d. |
| Lectures on Jurisprudence ...                      | Austin ...        | Murray ...        | 5th (1885)                                  | 1                   | 12 | 0  |
| Lectures on Jurisprudence (Student's Edition) ...  | R. Campbell (Ed.) | " ...             | (1890)                                      | 0                   | 12 | 0  |
| Analysis of Austin's Lectures on Jurisprudence ... | G. Campbell       | " ...             | 3rd (1888)                                  | 0                   | 6  | 0  |
| *Elements of Jurisprudence ...                     | Holland ...       | Clarendon Press.  | 7th (1895)                                  | 0                   | 10 | 6  |
| The Institutes of Justinian ...                    | Sandars ...       | Longmans          | 8th (1888)                                  | 0                   | 18 | 0  |
| Elements of Roman Law by Gaius ...                 | Poste ...         | Clarendon Press.  | 3rd (1890)                                  | 0                   | 18 | 0  |
| Institutes of Gaius and Justinian ...              | Harris ...        | Stevens & Haynes  | 2nd (1889)                                  | 0                   | 6  | 0  |
| *Histoire ...                                      | Ortolan ...       | " ...             | 10th (1876)                                 | 3                   | 12 | 0  |
| Introduction to Roman Law ...                      | Hunter ...        | Sweet & Maxwell   | 4th (1887)                                  | 0                   | 7  | 6  |
| Ancient Law ...                                    | Maine ...         | Murray ...        | 15th (1894)                                 | 0                   | 9  | 0  |
| *Early History of Institutions ...                 | Maine ...         | "                 | 6th (1893)                                  | 0                   | 9  | 0  |
| English Constitutional History ...                 | Taswell-Langmead  | Stevens & Haynes  | 4th (1890)                                  | 1                   | 1  | 0  |
| Constitutional History ...                         | Fielden ...       | Oxford, Blackwell | 3rd (1895)                                  | 0                   | 6  | 0  |

## APPENDIX G.

### INCORPORATED LAW SOCIETY, U.K.

#### LEGAL EDUCATION.

THE Council invite attention to the scheme set forth below, which has been adopted with the object of affording assistance to articled clerks, before and after the Intermediate Examination, in the prosecution of their studies, and to encourage a habit of systematic reading.

The intention is to offer to articled clerks an opportunity of carefully and thoroughly reading and digesting the principles and practice of law, the knowledge of which will be essential to them in their professional career.

To enable articled clerks to do so with effect, it has been decided to extend the instruction over a considerable period, so that those who desire continuous assistance may have it during the greater part of their articles, without unduly shortening the time necessary for office work and reasonable relaxation.

Attention is specially directed to the facilities now, for the first time, afforded to students, by which the books necessary for the prosecution of the studies may be at their disposal.

#### PRIOR TO THE INTERMEDIATE EXAMINATION.

A tutor has been appointed to supervise the studies of pupils. Students are recommended to subscribe for, first, a course of postal tuition extending over twelve months at least

Postal instruction, both for London and country students, will be given by means of monthly letters containing suggestions as to the general course of reading, with hints as to points to be noted and general advice, and with questions to be answered from memory, the answers to be returned to the tutor, for correction and comment.

This course of instruction to cover the selected portions of Stephen's Commentaries within each twelve months.

It is intended that the letters shall be varied each year, so that students who may decide to subscribe for more than one year's tuition shall receive additional assistance.

This course may commence at any time.

In addition, each student will have during the period of this subscription opportunity of consulting the tutor in personal interview on three afternoons of each week, or at any time by letter, on such points and questions as may present difficulties to him.

Arrangements have been entered into through the tutors with a firm of law publishers and booksellers, under which the volume of Stephen's Commentaries for the time being under consideration will be forwarded to subscribers. The intention is that the volume should be retained by students so long as required for study upon that portion of Stephen's, and should then be returned by them.

The next volume would in due course follow.

To cover the additional expense, a fee of £1 1s. is added, as will be seen by reference to the Table of Fees, and students will be required to pay the cost of transmission of books through the post, or otherwise. If, however, students desire to purchase their books, they may subscribe for this course of tuition without payment of the additional fee.

Also, in addition, students are recommended to subscribe after the expiration of this tuition, whether it be for one year or longer, to a class preparation.

Rooms have been set aside at the Hall of the Society, for the purpose of preparation, for the use of students attending the classes,

and copies of Stephen's Commentaries are there provided for perusal.

The classes will be held on three afternoons in each week at the Hall of the Society.

Periodical test examinations will be held by the tutor.

Four classes will be held in each year during the following periods :

|                     |                   |
|---------------------|-------------------|
| August to November. | January to April. |
| October to January. | March to June.    |

Students may subscribe for successive classes, and will, as in the case of postal tuition, have opportunities of consulting the tutor in personal interview or by letter.

A Time Table of Classes for students who have not passed the Intermediate Examination will be handed to each subscriber to the classes.

Tutor, Dr. WEST.

#### AFTER THE INTERMEDIATE EXAMINATION.

A tutor has been appointed to assist in their studies those students who have passed the Intermediate Examination.

The course of instruction will embrace the following subjects :

The Principles and Practice of Equity.

„ „ Conveyancing.

„ „ Common Law.

„ „ Bankruptcy.

Criminal and Magisterial.

Probate and Divorce.

Ecclesiastical Law.

Admiralty.

Students are recommended to subscribe for, first, a course of postal tuition extending over twelve months.

Postal instruction, both for those residing in London and the county, will consist of twenty-four fortnightly letters, in character

similar to those referred to for students prior to the Intermediate Examination. These letters will deal with the subjects above mentioned, and answers are to be returned to the tutor, within seven days from receipt, for correction and comment.

It is intended that the letters shall be altered and revised from time to time, to embrace recent statutes, cases, and rules, so that students who may decide to subscribe for more than one series shall receive additional assistance.

This course may commence at any time. In addition, each student will have, during this course of instruction, opportunities of consulting the tutor personally on three afternoons each week, or at any time by letter.

In this case also arrangements have been made under which all the works covered by the course of instruction will be forwarded to subscribers to the classes, and also to students who subscribe to the course of postal instruction. Each book or volume may be retained until the papers set upon it have been considered and answered, and should then be returned and application be made for the one next required.

To cover the additional expense, a fee of £1 11s. 6d. is added, as appears by the Table of Fees, and students will be required to pay the cost of transmission of the books through the post or otherwise.

Students who desire to purchase their books may subscribe for this course of tuition without payment of the additional fee.

Also, in addition, students are recommended to subscribe, after this course of instruction shall have expired, to a preparation in class.

The classes will be held on four afternoons each week at the Hall of the Society.

The classes will be held during the periods following, namely : From August to January, and from January to June.

Each of these periods will afford five months' class preparation, and the work will be so arranged that students can join the classes

at any time. By reference to the Table of Fees, it will be seen that amounts are charged proportionately to the length of tuition. Students are advised to subscribe for a full course, and in any case for not less than three months, otherwise the work must necessarily be hurried.

Each subscriber to the classes will have the opportunity of consulting the tutor personally during three afternoons in each week, or at any time by letter.

For the purpose of preparation, rooms have been set aside at the Hall of the Society for the convenience of students attending the classes, and copies of the books to be considered in class are there provided for perusal.

Students may join the classes, either those before or after the Intermediate Examination, without subscribing to the course of tuition by correspondence, but it is recommended that they should avail themselves of both modes of instruction.

Periodical test examinations will be held by the tutor for students attending the classes.

Tutor, Mr. J. CARTER HARRISON.

A Time Table of Classes for students who have passed the Intermediate Examination will be handed to each subscriber.

### FEES.

#### *Before Intermediate Examination.*

|                                                       |     |   |     |
|-------------------------------------------------------|-----|---|-----|
| For twelve months' subscription to postal preparation | £3  | 3 | 0   |
| Ditto ditto ditto                                     |     |   |     |
| with books supplied ... ..                            | ... | 4 | 4 0 |
| For two years' subscription to postal preparation     | ... | 5 | 5 0 |
| Ditto ditto ditto                                     |     |   |     |
| with books supplied ... ..                            | ... | 7 | 7 0 |

|                                                                 |     |     |     |    |   |   |
|-----------------------------------------------------------------|-----|-----|-----|----|---|---|
| For three months' class preparation                             | ... | ... | ... | £4 | 4 | 0 |
| For those who have previously subscribed for postal instruction | ... | ... | ... | 3  | 3 | 0 |
| For six months' class preparation                               | ... | ... | ... | 7  | 7 | 0 |
| For those who have previously subscribed for postal instruction | ... | ... | ... | 5  | 5 | 0 |

*After Intermediate Examination.*

|                                                                 |     |   |    |   |
|-----------------------------------------------------------------|-----|---|----|---|
| For twelve months' subscription to postal preparation           | ... | 5 | 5  | 0 |
| Ditto ditto ditto                                               |     |   |    |   |
| with books supplied                                             | ... | 6 | 16 | 6 |
| For two years' subscription to postal preparation               | ... | 6 | 6  | 0 |
| Ditto ditto ditto                                               |     |   |    |   |
| with books supplied                                             | ... | 9 | 9  | 0 |
| For five months' class preparation                              | ... | 7 | 7  | 0 |
| For those who have previously subscribed for postal instruction | ... | 6 | 6  | 0 |
| For four months' class preparation                              | ... | 6 | 6  | 0 |
| For those who have previously subscribed for postal instruction | ... | 5 | 5  | 0 |
| For three months' class preparation                             | ... | 5 | 5  | 0 |
| For those who have previously subscribed for postal instruction | ... | 4 | 4  | 0 |

*Cheques and Post Office Orders should be made payable to the SECRETARY, and crossed "Messrs. GOSLINGS & SHARPE."*

LAW SOCIETY'S HALL,

*February, 1895.*

## APPENDIX H.

### I.—LIST OF OFFICIAL APPOINTMENTS FOR WHICH SOLICITORS ALONE ARE ELIGIBLE.

| OFFICE.                                                                                                                             | SALARY.                                                  | REMARKS.                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Chief Clerks of the Chancery Division ...<br>Taxing Masters of the Chancery Division ...<br>Registrars in the Chancery Division ... | £1,200 to £1,500<br>£1,500 to £2,000<br>£1,500 to £2,000 | Solicitors of ten years' standing.<br>Solicitors of twelve years' standing.<br>These appointments are filled in rotation by the senior of the Clerks to the Registrars. |
| First Class Clerks in the Registrars' Office...                                                                                     | £300—500                                                 | Solicitors or persons who have served a term of five years under articles.<br>Solicitors of six years' standing.                                                        |
| Commissioners for Oaths ...<br>Perpetual Commissioners for taking Acknowledgments of Married Women ...                              | Statutory fees only<br>Ditto                             | These appointments are almost exclusively confined to Solicitors.                                                                                                       |
| District Registrars of the Supreme Court ...                                                                                        | —                                                        | The Lord Chancellor may appoint a Solicitor of not less than five years' standing.<br>He must be a Solicitor.                                                           |
| Registrars of the County Courts ...                                                                                                 | —                                                        | " "                                                                                                                                                                     |
| Registrar in the Stannaries Court ...                                                                                               | —                                                        | " "                                                                                                                                                                     |
| Registrar in the Salford Hundred Court ...                                                                                          | —                                                        | " "                                                                                                                                                                     |

# II.—LIST OF OFFICIAL APPOINTMENTS TO WHICH SOLICITORS ARE USUALLY APPOINTED.

| OFFICE.                                                             | SALARY.          | REMARKS.                                                                                                                                                                                                                         |
|---------------------------------------------------------------------|------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Under Sheriffs ...<br>District Registrars in the Palatine Court ... | —<br>—           | —<br>The Chancellor appoints "such competent persons as he shall think fit."                                                                                                                                                     |
| Coroners...                                                         | —                | No legal qualification is necessary, but where the County Coroner appoints a Deputy it is usually required by the Lord Chancellor that the Deputy be a qualified legal or medical practitioner of the age of twenty-seven years. |
| Probate Registrars ...                                              | £1,200 to £1,500 | Baristers, Proctors, or Solicitors, or Clerk for five years in the Registry.                                                                                                                                                     |
| Town Clerks ...                                                     | —                | In some places Barristers have been appointed. Solicitors or Clerks in the Police Courts, or Justices' Clerks of seven years' standing.                                                                                          |
| Chief Clerk in the Metropolitan Police Court                        | —                | Barristers, Special Pleaders, Solicitors, or subordinate officers of a Clerk of Assize on circuit of three years' standing.                                                                                                      |
| Clerk of Assize...                                                  | —                | Barristers or Solicitors are usually appointed.                                                                                                                                                                                  |
| Clerks of the Peace                                                 | —                | —                                                                                                                                                                                                                                |
| Clerks to Magistrates ...                                           | —                | Barristers of fourteen years' standing, or Solicitors, or Clerks of seven years' standing to Police or Stipendiary Magistrates.                                                                                                  |
| Clerks to Justices ...                                              | —                | The Justices appoint "a fit person."                                                                                                                                                                                             |
| Clerks to Borough Justices                                          | —                | —                                                                                                                                                                                                                                |
| Vestry Clerks ...                                                   | —                | —                                                                                                                                                                                                                                |
| Clerks to Guardians ...                                             | —                | —                                                                                                                                                                                                                                |
| Ward Clerks in London                                               | —                | —                                                                                                                                                                                                                                |
| Official Receivers ...                                              | —                | Appointments usually given to Solicitors, Accountants, and Surveyors.                                                                                                                                                            |
| Registrar of the Borough County Court ...                           | —                | No fixed qualification.                                                                                                                                                                                                          |

### III.—LIST OF OFFICIAL APPOINTMENTS FOR WHICH BOTH BARRISTERS AND SOLICITORS ARE ELIGIBLE.

| OFFICE.                                                          | SALARY. | REMARKS.                                                                                                                         |
|------------------------------------------------------------------|---------|----------------------------------------------------------------------------------------------------------------------------------|
| Deputy Borough Coroner ... ..                                    | —       | It appears that any fit person may be appointed Borough Coroner, but a Deputy Coroner must be either a Barrister or a Solicitor. |
| Solicitor to the County Council ... ..                           | £1,750  | Now held by a Solicitor.                                                                                                         |
| Solicitor to the City of London ... ..                           | £2,000  | "                                                                                                                                |
| Solicitor, Board of Trade ... ..                                 | £1,800  | "                                                                                                                                |
| Solicitor, British Museum ... ..                                 | —       | "                                                                                                                                |
| Solicitor, Charity Commission ... ..                             | —       | "                                                                                                                                |
| Solicitor, Copyhold Enclosure and Tithe Commission ... ..        | —       | "                                                                                                                                |
| Law Clerk, Duchy of Cornwall ... ..                              | —       | "                                                                                                                                |
| Solicitor to the Customs ... ..                                  | £2,000  | "                                                                                                                                |
| Assistant Solicitor to ditto ... ..                              | £800    | Now held by a Barrister.                                                                                                         |
| Solicitor, Ecclesiastical Commissioners ... ..                   | —       | Now held by a Solicitor.                                                                                                         |
| Solicitor, Exchequer and Audit Department ... ..                 | —       | "                                                                                                                                |
| Solicitor, General Post Office ... ..                            | £1,500  | "                                                                                                                                |
| Solicitor, Inland Revenue ... ..                                 | £2,000  | Now held by a Barrister.                                                                                                         |
| Assistant Solicitor to ditto ... ..                              | £1,200  | —                                                                                                                                |
| Solicitor, Duchy of Lancaster ... ..                             | £1,500  | Now held by a Solicitor.                                                                                                         |
| Solicitor, Public Works Loan Board ... ..                        | £1,100  | "                                                                                                                                |
| Official Solicitor, Supreme Court ... ..                         | —       | "                                                                                                                                |
| Solicitor, Treasury ... ..                                       | —       | Now held by a Barrister.                                                                                                         |
| Assistant Solicitors to Treasury ... ..                          | —       | Two are Barristers and one is a Solicitor.                                                                                       |
| Solicitor for Woods and Forests ... ..                           | £1,500  | Now held by a Barrister.                                                                                                         |
| Solicitor to the Works Commission ... ..                         | —       | "                                                                                                                                |
| Secretary and Steward to the Ecclesiastical Commissioners ... .. | —       | "                                                                                                                                |
| Registrar of the Privy Council ... ..                            | £1,500  | Now held by a Barrister. Any fit person may be appointed to fill this office.                                                    |
| Registrar of the Railway and Canal Traffic Commissioners ... ..  | —       | Now held by a Barrister.                                                                                                         |

# III.—LIST OF OFFICIAL APPOINTMENTS FOR WHICH BOTH BARRISTERS AND SOLICITORS ARE ELIGIBLE—*continued.*

| OFFICE.                                                          | SALARY.            | REMARKS.                                                                                                              |
|------------------------------------------------------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------|
| Solicitors to Trinity House ... ..                               | —                  | Now held by Solicitors.                                                                                               |
| Assistant Under-Secretary to the Treasury...                     | £1,500             | Now held by a Barrister.                                                                                              |
| Parliamentary Board of Trade ... ..                              | £1,500             | "                                                                                                                     |
| " Foreign Office ... ..                                          | £1,500             | "                                                                                                                     |
| Secretary to the Lord Chancellor ... ..                          | —                  | "                                                                                                                     |
| Permanent Under-Secretary, Home Office...                        | £2,000             | "                                                                                                                     |
| Assistant ditto ... ..                                           | £1,500             | "                                                                                                                     |
| " Foreign Office ... ..                                          | £1,500             | "                                                                                                                     |
| " Colonial Office ... ..                                         | £1,2300            | "                                                                                                                     |
| " India Office ... ..                                            | —                  | "                                                                                                                     |
| " Board of Trade ... ..                                          | £2,000             | "                                                                                                                     |
| Permanent Secretary, Local Government                            | £1,800             | "                                                                                                                     |
| Board ... ..                                                     | £1,500             | "                                                                                                                     |
| Permanent Secretary, Committee of Council<br>on Education ... .. | £1,800             | "                                                                                                                     |
| Clerk to the House of Commons ... ..                             | £2,000             | Now held by a Solicitor.                                                                                              |
| Coroner to the Duchy of Lancaster... ..                          | —                  | "                                                                                                                     |
| Clerk and Solicitors to the Duchy of<br>Lancaster ... ..         | —                  | "                                                                                                                     |
| Solicitor to Queen Anne's Bounty ... ..                          | —                  | "                                                                                                                     |
| Eighteen Masters of the High Court ... ..                        | Costs or fees only | "                                                                                                                     |
| Registrar under Land Transfer Act... ..                          | —                  | —                                                                                                                     |
| Assistant Registrar ... ..                                       | —                  | Barrister of ten years' standing,<br>Barristers, Solicitors, or Certificated Conveyancers<br>of five years' standing. |
| District Registrar ... ..                                        | —                  | Ditto ditto of ten years' standing.                                                                                   |
| Assistant District Registrar ... ..                              | —                  | Ditto ditto of five years' standing.                                                                                  |
| Judges of Inferior Courts of Record ... ..                       | —                  | Barristers, Special Pleaders, or Solicitors.                                                                          |
| Director of Public Prosecutions ... ..                           | —                  | Barristers or Solicitors in actual practice of ten<br>years' standing.                                                |
| Assistant Directors ... ..                                       | —                  | Ditto ditto of seven years' standing.                                                                                 |
| Registrar in Admiralty Division ... ..                           | —                  | Barristers, Proctors, or Solicitors of ten years'<br>standing.                                                        |

## APPENDIX I.

### LIST OF IMPORTANT STATUTES FOR ANALYSIS.

THE student will find it extremely useful to make an analysis of all the Statutes given in this list. This analysis should be commenced soon after passing his Intermediate Examination, and should be continued gradually until he has completed the whole list. Of course it is not suggested that the whole Statutes should be written out word for word; and the student must also exercise his judgment as to what parts of the Statute to analyse, and should omit altogether those sections which are unimportant. This analysis, when completed, will prove a most valuable book to the student for reference in his subsequent reading. Those Statutes which are distinguished by an asterisk are essential for the student who is reading for a Pass only; the others are given more especially for the student for Honours.

## I.—CONVEYANCING AND EQUITY.

|                                      |        |                                                                                                       |
|--------------------------------------|--------|-------------------------------------------------------------------------------------------------------|
| 20 Hen. III. c. 4 (1235)             | ...    | Statute of Merton.                                                                                    |
| 7 Edw. I. c. 1 (1279)                | ...    | De Religiosis—Preventing Corporations acquiring lands without the Crown's license.                    |
| *13 Edw. I. c. 1 (1285)              | ...    | De Donis—Creating strict entails.                                                                     |
| *13 Edw. I. c. 18 (1285)             | ...    | Elegit—Allowing half debtors' freehold lands to be taken under execution.                             |
| *18 Edw. I. c. 1 (1290)              | ...    | Quia Emptores—Crushing subinfeudation and allowing lands to be freely aliened.                        |
| *27 Hen. VIII. c. 10 (1535)          | ...    | Statute of Uses—Turning uses into possession.                                                         |
| 27 Hen. VIII. c. 16 (1535)           | ...    | Statute of Enrolments—Requiring bargains and sales to be enrolled.                                    |
| 32 Hen. VIII. c. 1 (1540)            | ...    | } Wills.                                                                                              |
| 7 Will. IV. and 1 Vict. c. 26 (1837) | ... .. |                                                                                                       |
| 15 & 16 Vict. c. 24 (1852)           | ...    |                                                                                                       |
| *13 Eliz. c. 5 (1571)                | ...    | Fraudulent dispositions.                                                                              |
| 13 Eliz. c. 20 (1571)                | ...    | Clergymen cannot charge their benefices.                                                              |
| *27 Eliz. c. 4 (1585)                | ...    | } Voluntary conveyances.                                                                              |
| *56 & 57 Vict. 21 (1893)             | ...    |                                                                                                       |
| *12 Car. II. c. 24 (1660)            | ...    | Abolishing feudal tenures.                                                                            |
| *22 & 23 Car. II. c. 10 (1670)       | ...    | } Statutes of Distribution—Regulating the devolution of personal estates of intestates.               |
| *1 Jac. II. c. 17 (1685)             | ...    |                                                                                                       |
| *53 & 54 Vict. c. 29 (1890)          | ...    |                                                                                                       |
| 4 & 5 W. & M. c. 16 (1693)           | ...    | Mortgagor fraudulently concealing first mortgage loses his equity of redemption.                      |
| 6 Anne c. 18 (1707)                  | ...    | Production of <i>cestui que vie</i> may be ordered.                                                   |
| 4 Geo. II. c. 28 (1731)              | ...    | } Landlord and tenant.                                                                                |
| 11 Geo. II. c. 19 (1738)             | ...    |                                                                                                       |
| *39 & 40 Geo. III. c. 98 (1800)      | ...    | } The <i>Thellusson Act</i> and Amendment thereof—Placing restrictions on the accumulation of income. |
| *55 & 56 Vict. c. 58 (1892)          | ...    |                                                                                                       |
| *9 Geo. IV. c. 94 (1828)             | ...    | Special Resignation Bonds are good.                                                                   |

|                                                    |                                                                                                                            |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| 11 Geo. IV. and 1 Will. IV.<br>c. 40 (1830) ... .. | Making executors trustees for next-of-kin of undisposed-of residue.                                                        |
| *11 Geo. IV. and 1 Will. IV.<br>c. 46 (1830)... .. | } Illusory and exclusive appointments.                                                                                     |
| *37 & 38 Vict. c. 37 (1874) ...                    |                                                                                                                            |
| *2 & 3 Will. IV. c. 71 (1832)...                   | The Prescription Act—Making enjoyment for thirty years of commons and twenty years of easements a good prescriptive title. |
| 3 & 4 Will. IV. c. 27 (1833)...                    | } Real Property Limitation Acts—Limiting the time within which actions for land must be commenced.                         |
| 1 Vict. c. 28 (1837) ... ..                        |                                                                                                                            |
| 37 & 38 Vict. c. 57 (1874) ...                     | Fines and Recoveries Abolition Act.                                                                                        |
| *3 & 4 Will. IV. c. 74 ... ..                      | } Debts.                                                                                                                   |
| *3 & 4 Will. IV. c. 104 (1833)                     |                                                                                                                            |
| *32 & 33 Vict. c. 46 (1869) ..                     | Dower Act.                                                                                                                 |
| *3 & 4 Will. IV. c. 105 (1833).                    | Inheritance Act.                                                                                                           |
| *3 & 4 Will. IV. c. 106 (1833).                    | } Registration of Judgments.                                                                                               |
| 1 & 2 Vict. c. 110 (1837) ...                      |                                                                                                                            |
| 27 & 28 Vict. c. 112 (1864) ...                    |                                                                                                                            |
| 51 & 52 Vict. c. 51 (1888) ...                     | Real Property Amendment Act.                                                                                               |
| *8 & 9 Vict. c. 106 (1845) ...                     | Satisfied terms to cease.                                                                                                  |
| *8 & 9 Vict. c. 112 (1845) ...                     | } Trustee Relief Acts—Enabling trustees to pay money into Court.                                                           |
| 10 & 11 Vict. c. 96 (1847) ...                     |                                                                                                                            |
| 12 & 13 Vict. c. 74 (1849) ...                     |                                                                                                                            |
| 13 & 14 Vict. c. 60 (1850) ...                     |                                                                                                                            |
| 15 & 16 Vict. c. 55 (1852) ...                     | } Defects in leases under powers.                                                                                          |
| *12 & 13 Vict. c. 26 (1849) ...                    |                                                                                                                            |
| *13 & 14 Vict. c. 17 (1850) ...                    | } Agricultural fixtures and agricultural holdings generally.                                                               |
| 14 & 15 Vict. c. 25 (1851) ...                     |                                                                                                                            |
| *46 & 47 Vict. c. 61 (1883) ...                    | Succession Duty Act.                                                                                                       |
| 16 & 17 Vict. c. 51 (1853) ...                     | } Locke King's Act and Amending Acts—Lands mortgaged or purchased, and not paid for, descend <i>cum onere</i> .            |
| *17 & 18 Vict. c. 113 (1854) ...                   |                                                                                                                            |
| *30 & 31 Vict. c. 69 (1867) ...                    |                                                                                                                            |
| *40 & 41 Vict. c. 34 (1877) ...                    | Infants' settlements.                                                                                                      |
| *18 & 19 Vict. c. 43 (1855) ...                    | Mercantile Law Amendment Act.                                                                                              |
| 19 & 20 Vict. c. 97 (1856) ...                     | Malins' Act—Married women's reversionary interests.                                                                        |
| 20 & 21 Vict. c. 57 (1857) ...                     | } Lord St. Leonards' Act and Amendment thereof.                                                                            |
| *22 & 23 Vict. c. 35 (1859) ...                    |                                                                                                                            |
| *23 & 24 Vict. c. 38 (1860) ...                    | Allowing sales of land by trustees reserving minerals.                                                                     |
| 25 & 26 Vict. c. 108 (1862) ...                    |                                                                                                                            |

|                                                    |                                                                                                                                                    |
|----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|
| 30 & 31 Vict. c. 48 (1867) ...                     | Auctions.                                                                                                                                          |
| 31 Vict. c. 4 (1868) ...                           | Sales of reversions.                                                                                                                               |
| *31 & 32 Vict. c. 40 (1868) ...                    | } Partition.                                                                                                                                       |
| *39 & 40 Vict. c. 17 (1876) ...                    |                                                                                                                                                    |
| 32 & 33 Vict. c. 46 (1869) ...                     |                                                                                                                                                    |
|                                                    | Hinde Palmer's Act — Abolishing priority of specialty creditors.                                                                                   |
| 33 Vict. c. 14 (1870)...                           | Naturalisation of foreigners.                                                                                                                      |
| *33 & 34 Vict. c. 23 (1870) ...                    | Abolition of forfeiture and escheat for felony.                                                                                                    |
| *33 & 34 Vict. c. 93 (1870) ...                    | } Married Women—The two first of these Acts are repealed, but should still be considered on account of matters occurring before January 1st, 1883. |
| *37 & 38 Vict. c. 50 (1874) ...                    |                                                                                                                                                    |
| *45 & 46 Vict. c. 75 (1882) ...                    |                                                                                                                                                    |
| *47 & 48 Vict. c. 14 (1884) ...                    |                                                                                                                                                    |
| *56 & 57 Vict. c. 63 (1893) ...                    |                                                                                                                                                    |
| 36 Vict. c. 12 (1873)...                           | } Custody and guardianship of infants.                                                                                                             |
| 49 & 50 Vict. c. 27 (1886) ...                     |                                                                                                                                                    |
| 54 Vict. c. 3 (1891) ...                           |                                                                                                                                                    |
| *37 & 38 Vict. c. 57 (1874) ...                    | Real Property Limitation Act.                                                                                                                      |
| *37 & 38 Vict. c. 78 (1874) ...                    | Vendor and Purchaser Act.                                                                                                                          |
| 38 & 39 Vict. c. 87 (1875) ...                     | Land Transfer Act—Establishing a land registry for the registration of titles.                                                                     |
| 40 & 41 Vict. c. 18 (1877) ...                     | Settled Estates Act.                                                                                                                               |
| *40 & 41 Vict. c. 33 (1877) ...                    | Contingent remainders.                                                                                                                             |
| 44 Vict. c. 12 (Part III.) (1881)                  | } Revenue Statutes.                                                                                                                                |
| 51 & 52 Vict. c. 8 (Parts III. and IV.) (1888) ... |                                                                                                                                                    |
| 52 Vict. c. 7 (Part II. except s. 18) (1889) ...   |                                                                                                                                                    |
| 57 & 58 Vict. c. 30 (1894) ...                     |                                                                                                                                                    |
| *44 & 45 Vict. c. 41 (1881) ...                    |                                                                                                                                                    |
| *45 & 46 Vict. c. 39 (1882) ...                    | } Conveyancing and Law of Property Acts.                                                                                                           |
| *55 & 56 Vict. c. 13 (1892) ...                    |                                                                                                                                                    |
| 44 & 45 Vict. c. 44 (1881) ...                     | The Solicitors' Remuneration Act.                                                                                                                  |
| *45 & 46 Vict. c. 38 (1882) ...                    | } Settled Land Acts.                                                                                                                               |
| *47 & 48 Vict. c. 18 (1884) ...                    |                                                                                                                                                    |
| *50 & 51 Vict. c. 30 (1887) ...                    |                                                                                                                                                    |
| *52 & 53 Vict. c. 30 (1889) ...                    |                                                                                                                                                    |
| *53 & 54 Vict. c. 69 (1890) ...                    | } Registry Acts.                                                                                                                                   |
| 47 & 48 Vict. c. 54 (1884) ...                     |                                                                                                                                                    |
| 48 & 49 Vict. c. 26 (1885) ...                     |                                                                                                                                                    |
| 51 & 52 Vict. c. 51 (1888) ...                     |                                                                                                                                                    |

|                                 |                                    |
|---------------------------------|------------------------------------|
| *47 & 48 Vict. c. 71 (1884) ... | Intestates' Estates Act.           |
| *51 & 52 Vict. c. 42 (1888) ... | Mortmain and Charitable Uses Acts. |
| *54 & 55 Vict. c. 73 (1891) ... |                                    |
| *55 & 56 Vict. c. 11 (1892) ... |                                    |
| 51 & 52 Vict. c. 59 (1888) ...  | Trustee Acts.                      |
| 52 & 53 Vict. c. 32 (1889) ...  |                                    |
| 56 & 57 Vict. c. 53 (1893) ...  |                                    |
| 57 Vict. c. 10 (1894) ...       |                                    |
| 53 & 54 Vict. c. 57 (1890) ...  | Tenants' Compensation Act.         |
| 53 & 54 Vict. c. 62 (1890) ...  | Companies Acts.                    |
| 53 & 54 Vict. c. 63 (1890) ...  |                                    |
| 56 & 57 Vict. c. 58 (1893) ...  | Copyhold Act.                      |
| 57 & 58 Vict. c. 46 (1894) ...  |                                    |

## II.—COMMON LAW.

|                                 |                                                                                               |
|---------------------------------|-----------------------------------------------------------------------------------------------|
| *21 Jac. I. c. 16 (1624) ...    | Statute of Limitations—Limiting the time within which certain actions must be commenced.      |
| *29 Car. II. c. 3 (1677) ...    | { Statute of Frauds. (Note, that s. 17 is replaced by s. 4 of the Sale of Goods Act, 1893.)   |
| 8 & 9 Will. II. c. 11 (1697)... |                                                                                               |
|                                 | Penalties relieved against, at law.                                                           |
| *9 Geo. IV. c. 14 (1828) ...    | { Lord Tenterden's Act. (Note, that s. 7 is replaced by s. 4 of the Sale of Goods Act, 1893.) |
|                                 |                                                                                               |
| *1 Will. IV. c. 68 (1830) ...   | Carriers.                                                                                     |
| *17 & 18 Vict. c. 31 (1854) ... |                                                                                               |
| 5 & 6 Will. IV. c. 41 (1835)... | Gaming contracts.                                                                             |
| 8 & 9 Vict. c. 109 (1845) ...   |                                                                                               |
| 55 Vict. c. 9 (1892) ...        |                                                                                               |
| 5 & 6 Vict. c. 45 (1842) ...    | Copyright Act.                                                                                |
| 6 & 7 Vict. c. 85 (1843) ...    |                                                                                               |
| 14 & 15 Vict. c. 99 (1851) ...  | Evidence.                                                                                     |
| 16 & 17 Vict. c. 83 (1853) ...  |                                                                                               |
| 32 & 33 Vict. c. 68 (1869) ...  |                                                                                               |
| 42 Vict. c. 11 (1879)...        |                                                                                               |
| 51 & 52 Vict. c. 46 (1888) ...  |                                                                                               |

|                                 |   |                                                                            |
|---------------------------------|---|----------------------------------------------------------------------------|
| *6 & 7 Vict. c. 96 (1843) ...   | } | Libel and slander.                                                         |
| 44 & 45 Vict. c. 60 (1881) ...  |   |                                                                            |
| 51 & 52 Vict. c. 64 (1888) ...  |   |                                                                            |
| *54 & 55 Vict. c. 51 (1891) ... | } | Lord Campbell's Act and Amendment thereof.                                 |
| *9 & 10 Vict. c. 93 (1846) ...  |   |                                                                            |
| *27 & 28 Vict. c. 95 (1864) ... |   |                                                                            |
| *19 & 20 Vict. c. 97 (1856) ... | } | Mercantile Law Amendment Act.                                              |
| *26 & 27 Vict. c. 41 (1863) ... |   |                                                                            |
| *41 & 42 Vict. c. 38 (1878) ... |   |                                                                            |
| *28 & 29 Vict. c. 60 (1865) ... | } | Innkeepers.                                                                |
| 32 & 33 Vict. c. 62 (1869) ...  |   |                                                                            |
| 41 & 42 Vict. c. 54 (1878) ...  |   |                                                                            |
| 33 & 34 Vict. c. 28 (1870) ...  | } | Dogs, <i>Scienter</i> .                                                    |
| 44 & 45 Vict. c. 44 (1881) ...  |   |                                                                            |
| 51 & 52 Vict. c. 65 (1888) ...  |   |                                                                            |
| *34 & 35 Vict. c. 79 (1871) ... | } | Debtors Act and Amendment thereof.                                         |
| *36 & 37 Vict. c. 66 (1873) ... |   |                                                                            |
| 38 & 39 Vict. c. 77 (1875) ...  |   |                                                                            |
| *53 & 54 Vict. c. 49 (1890) ... | } | Solicitors.                                                                |
| *57 & 58 Vict. c. 16 (1894) ... |   |                                                                            |
| *37 & 38 Vict. c. 62 (1874) ... |   |                                                                            |
|                                 | } | Lodgers' Goods Protection Act.                                             |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | Judicature.                                                                |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | Infants' Relief Act—Infants' contracts void and incapable of ratification. |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
| *41 & 42 Vict. c. 31 (1878) ... | } | Bills of Sale.                                                             |
| *45 & 46 Vict. c. 43 (1882) ... |   |                                                                            |
| *53 & 54 Vict. c. 53 (1890) ... |   |                                                                            |
| *54 & 55 Vict. c. 35 (1891) ... | } | Employers' Liability.                                                      |
| *43 & 44 Vict. c. 42 (1880) ... |   |                                                                            |
| *57 & 58 Vict. c. 28 (1894) ... |   |                                                                            |
| 43 & 44 Vict. c. 47 (1880) ...  | } | Ground Game Act.                                                           |
| *45 & 46 Vict. c. 61 (1882) ... |   |                                                                            |
| *46 & 47 Vict. c. 57 (1883) ... |   |                                                                            |
| *51 & 52 Vict. c. 50 (1888) ... | } | Bills of Exchange Act.                                                     |
| 51 & 52 Vict. c. 21 (1888) ...  |   |                                                                            |
| 51 & 52 Vict. c. 25 (1888) ...  |   |                                                                            |
| *51 & 52 Vict. c. 43 (1888) ... | } | Patents Designs and Trade Marks Acts.                                      |
| *52 & 53 Vict. c. 45 (1889) ... |   |                                                                            |
| *52 & 53 Vict. c. 49 (1889) ... |   |                                                                            |
| *53 & 54 Vict. c. 39 (1890) ... | } | Distress Act.                                                              |
| *53 & 54 Vict. c. 64 (1890) ... |   |                                                                            |
| *56 & 57 Vict. c. 71 (1893) ... |   |                                                                            |
|                                 | } | Railway and Canal Traffic Act.                                             |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | County Courts Act.                                                         |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | Factors.                                                                   |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | Arbitration.                                                               |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | Partnership.                                                               |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | Directors' Liability.                                                      |
|                                 |   |                                                                            |
|                                 |   |                                                                            |
|                                 | } | Sale of Goods Act.                                                         |
|                                 |   |                                                                            |
|                                 |   |                                                                            |

## III.—BANKRUPTCY.

|                                 |   |                                          |
|---------------------------------|---|------------------------------------------|
| *46 & 47 Vict. c. 52 (1883) ... | } | Bankruptcy Acts—Consolidating the        |
| *47 Vict. c. 9 (1884) ...       |   | Law of Bankruptcy.                       |
| 50 & 51 Vict. c. 57 (1887) ...  |   | Deeds of Arrangement Act.                |
| *51 & 52 Vict. c. 62 (1888) ... |   | Preferential Payments in Bankruptcy Act. |
| *53 & 54 Vict. c. 71 (1890) ... |   | Bankruptcy Act.                          |

## IV.—CRIMINAL LAW.

|                                     |   |                                     |
|-------------------------------------|---|-------------------------------------|
| 25 Edw. III. st. 3, c. 2 (1351) ... | } | Treason.                            |
| 11 Hen. VII. c. 1 (1496) ...        |   |                                     |
| 36 Geo. III. c. 7 (1796) ...        |   |                                     |
| 32 Geo. III. c. 60 (1792) ...       |   | Fox's Act—Libel.                    |
| *11 & 12 Vict. c. 12 (1848) ...     |   | Treason Felony Act.                 |
| 22 & 23 Vict. c. 17 (1859) ...      |   | Palmer's Act—Vexatious indictments. |
| 24 & 25 Vict. c. 94 (1861) ...      |   | Accessories.                        |
| 24 & 25 Vict. c. 96 (1861) ...      |   | Larceny.                            |
| 24 & 25 Vict. c. 97 (1861) ...      |   | Malicious damage to property.       |
| 24 & 25 Vict. c. 98 (1861) ...      |   | Forgery.                            |
| 24 & 25 Vict. c. 99 (1861) ...      |   | Coinage.                            |
| 24 & 25 Vict. c. 100 (1861) ...     |   | Offences against the person.        |
| 28 Vict. c. 18 (1865) ...           |   | Evidence.                           |
| 30 & 31 Vict. c. 35 (1867) ...      | } | Criminal Law Amendment Acts.        |
| 48 & 49 Vict. c. 69 (1885) ...      |   |                                     |
| 34 & 35 Vict. c. 112 (1871) ...     |   | Stolen property.                    |
| 42 & 43 Vict. c. 49 (1879) ...      | } | Summary jurisdiction.               |
| 44 & 45 Vict. c. 24 (1881) ...      |   |                                     |
| 43 & 44 Vict. c. 32 ...             |   | Bastardy.                           |
| 43 & 44 Vict. c. 45 ...             |   | Indecent assault.                   |
| 49 & 50 Vict. c. 38 (1886) ...      |   | Riot (Damages) Act.                 |
| 50 & 51 Vict. c. 25 (1887) ...      |   | First offenders.                    |
| *50 & 51 Vict. c. 28 (1887) ...     |   | Merchandise Marks Act.              |
| 52 & 53 Vict. c. 41 (1889) ...      |   | Protection of children.             |
| 55 & 56 Vict. c. 56 (1892) ...      |   | Coroners.                           |
| 56 & 56 Vict. c. 48 (1893) ...      |   | Reformatory schools.                |

## V.—PROBATE.

|                                 |   |                               |
|---------------------------------|---|-------------------------------|
| *20 & 21 Vict. c. 77 (1857) ... | } | Probate Acts.                 |
| *21 & 22 Vict. c. 95 (1858) ... |   |                               |
| 21 & 22 Vict. c. 56 (1858) ...  |   | Confirmation and Probate Act. |
| 55 Vict. c. 6 (1892) ...        |   | Colonial Probates Act.        |

## VI.—DIVORCE.

|                                 |                                  |
|---------------------------------|----------------------------------|
| *20 & 21 Vict. c. 85 (1857) ... | Divorce Act.                     |
| 21 & 22 Vict. c. 93 (1858) ...  | Legitimacy Declaration Act.      |
| 41 Vict. c. 19 (1878) ...       | Matrimonial Causes Act.          |
| 49 & 50 Vict. c. 52 (1886) ...  | Married Women's Maintenance Act. |

## VII.—ADMIRALTY.

|                                  |                                                  |
|----------------------------------|--------------------------------------------------|
| 3 & 4 Vict. c. 65 (1840) ...     | Admiralty Court Act.                             |
| *17 & 18 Vict. c. 104 (1854) ... | } Merchant Shipping Act and Amend-<br>ment Acts. |
| *25 & 26 Vict. c. 63 (1862) ...  |                                                  |
| *43 & 44 Vict. c. 18 (1880) ...  |                                                  |
| 52 & 53 Vict. c. 46 (1889) ...   |                                                  |
| 55 & 56 Vict. c. 37 (1892) ...   |                                                  |
| 57 & 58 Vict. c. 60 (1894) ...   | } County Courts Admiralty Jurisdiction<br>Acts.  |
| 31 & 32 Vict. c. 71 (1868) ...   |                                                  |
| 32 & 33 Vict. c. 51 (1869) ...   |                                                  |

## VIII.—ECCLESIASTICAL LAW.

|                                 |   |                                                       |
|---------------------------------|---|-------------------------------------------------------|
| *31 Eliz. c. 6 (1589) ...       | } | Simony Acts.                                          |
| 12 Anne st. 2, c. 12 (1713) ... |   |                                                       |
| *6 & 7 Will. IV. c. 71 (1836)   |   | Tithe Commutation Act.                                |
| 3 & 4 Vict. c. 86 (1840) ...    |   | Church Discipline Act.                                |
| *34 & 35 Vict. c. 43 (1871) ... | } | Ecclesiastical Dilapidations Act.                     |
| 34 & 35 Vict. c. 44 (1871) ...  |   |                                                       |
| 50 & 51 Vict. c. 23 (1887) ...  | } | Incumbents' Resignation Act and<br>Amendment thereof. |
| 37 & 38 Vict. c. 85 (1874) ...  |   |                                                       |
| 49 & 50 Vict. c. 54 (1886) ...  |   | Public Worship Regulation Act.                        |
| 51 & 52 Vict. c. 20 (1888) ...  |   | Extraordinary Tithe Redemption Act.                   |
| 54 Vict. c. 9 (1891) ...        |   | Glebe Lands Act.                                      |
| 54 Vict. c. 9 (1891) ...        |   | Tithe Act.                                            |
| 55 & 56 Vict. c. 32 (1892) ...  |   | Clergy Discipline Act.                                |

## APPENDIX J.—LIST OF LEGAL MAXIMS.

*[The maxims set out in this Appendix have been selected from "Broom's Legal Maxims," by permission of the publishers of that work.]*

SIR WILLIAM BLACKSTONE, writing of legal maxims, says that their authority "rests entirely upon general reception and usage, and the only method of proving that this or that maxim is a rule of the common law, is by showing that it hath been always the custom to observe it."

In this Appendix fifty of the more important legal maxims are stated and briefly considered; these maxims embody some of the most elementary doctrines of the English law, and should be thoroughly understood by the student and committed to memory. To these maxims the remark of a recent writer is peculiarly applicable: "What proverbs, fitly defined as the wisdom of many and the wit of one, are in their precedent use to practical life, that and much more are 'Legal Maxims,' considered as condensed and abstract statements of legal principles, to the practitioner, to the student, and to the increasing body of laymen who feel they cannot

afford to be ignorant of the nature of the constitution and laws under which they live."

1. *Salus populi Suprema Lex.*—*That regard be had to the public welfare is the highest law.*

This legal axiom is based upon the implied assent on the part of every member of society that his own individual welfare shall, in cases of necessity, yield to that of the community.

2. *Summa ratio est quæ pro religione facit.*—*That course is to be adopted in preference to others which conduces to the cause of religion.*

This maxim is taken from the Digest of the Emperor Justinian. The doctrine as recognised by our own law may be understood as affirming that the law of God is under all circumstances superior in obligation to that of man.

3. *Leges posteriores priores contrarias abrogant.*—*When the provisions of a later statute are opposed to those of an earlier, the earlier statute is considered as repealed.*

It is an elementary rule of law that a later shall repeal an earlier and conflicting statute. A clause there-

fore in an Act of Parliament that such Act shall not be repealed is void.

4. Rex non debet esse sub homine, sed sub Deo et sub lege quia lex facit regem.—*The King is under no man, yet he is in subjection to God and to the law, for the law makes the King.*

The King is spoken of by old writers as the “fountain of justice,” and no Court can therefore have compulsory jurisdiction over the sovereign. At the same time the King is not above the law, for he cannot in person assume to try any case, but must do so by his judges.

5. Rex nunquam moritur.—*The King never dies.*

The law ascribes to the King, in his political capacity, an absolute immortality. Says Lord *Lyndhurst*: “It is true that *the King never dies*, the demise is immediately followed by the succession, there is no interval; the sovereign always exists, the person only is changed.”

6. Rex non potest peccare.—*The King can do no wrong.*

The meaning of this principle is that the King is independent of any other earthly power or jurisdiction; and that no wrong can be imputed to the King so as to render him answerable for it personally to his people.

7. Boni judicis est ampliare juris jurisdictionem.—*It is the duty of a judge, when requisite, to amplify the limits of his jurisdiction.*

The true meaning of this maxim is that judges should, *without usurping jurisdiction*, apply the rules of law to the advancement of substantial justice.

8. Audi alteram partem.—*No man should be condemned unheard.*

It is an elementary principle that a man shall not suffer in person or property by any judicial proceeding unless he has had an opportunity of being heard. "The Laws of God and man," says Fortescue, "both give the party an opportunity to make his defence if he has any."

9. Nemo debet esse judex in propriâ suâ causâ.—*No man can be judge in his own cause.*

It is a fundamental rule in the administration of justice that a person cannot be judge in a cause wherein he is interested.

10. Actus curiæ neminem gravabit.—*An act of the Court shall prejudice no man.*

"This maxim," says Cresswell J., "is founded upon

justice and good sense, and affords a safe and certain guide for the administration of the law."

11. *Communis error facit jus.*—*Common error sometimes passes current as law.*

The law so favours the public good, that it will in some cases permit a common error to pass for right.

12. *De minimis non curat lex.*—*The law does not concern itself about trifles.*

In illustration of this maxim, it may be observed that there are some injuries of so small and little consideration in the law that no action will lie for them.

13. *Ubi eadem ratio ibi idem jus.*—*Like reason doth make like law.*

"Law," says Blackstone, "is the perfection of reason, and that which is not reason is not law." The law therefore will not admit any presumption against reason, by which, says a recent writer, is to be understood "an artificial perfection of reason, acquired by long study, observation, and experience."

14. *Cessante ratione legis cessat ipsa lex.*—*Reason is the soul of the law, and when the reason of any particular law ceases, so does the law itself.*

An illustration of this maxim is afforded by the rule that whereas a member of Parliament is privileged from arrest during the session, in order that he may discharge his public duties, the privilege ceases after the termination of the session because the public have no longer an interest in his freedom from arrest.

15. *Allegans contraria non est audiendus.*—*He is not to be heard who alleges things contradictory to each other.*

This maxim is obviously an elementary rule of logic, and expresses in technical language the trite saying of Lord *Kenyon* that a man shall not be permitted to “blow hot and cold.”

16. *Omne majus continet in se minus.*—*The greater contains the less.*

An obvious illustration of this maxim is that the tender by a man of a sum larger than he ought to pay is good.

17. *Ubi jus ibi remedium.*—*There is no wrong without a remedy.*

“If a man has a right he must have a means to vindicate and maintain it,” quoth Chief Justice Holt.

This important principle exhibits the very foundation on which legal science rests.

18. In jure non remota causa, sed proxima, spectatur.—  
*In law the immediate, not the remote, cause of any event is regarded.*

Says Lord Bacon : “ It were infinite for the law to consider the causes of causes and their impulsions one of another ; therefore it contenteth itself with the immediate cause and judgeth of acts by that, without looking to any further degree.”

19. Actus Dei nemini facit injuriam.—*The act of God is so treated by the law as to affect no one injuriously.*

The above maxim may be explained as follows : that no person shall be held liable for such a direct violent and sudden act of nature as could not have been foreseen by a prudent and experienced person, or resisted by those means to which a prudent and experienced person under all the circumstances of the case would ordinarily have recourse.

20. Lex non cogit ad impossibilia.—*The law does not seek to compel a man to do that which he cannot possibly perform.*

“ The law itself and the administration of it,” said

Sir W. Scott, "must yield to that to which everything must bend—to necessity." It is therefore a general rule that *impotentia excusat legem*.

21. Ignorantia facti excusat, ignorantia juris non excusat.—  
*Ignorance of fact excuses, ignorance of law does not excuse.*

The meaning of this rule, which is drawn from the Civil Law, is that ignorance of a material fact may excuse a party from the legal consequences of his conduct ; but ignorance of the law, which every man is presumed to know, does not afford excuse.

22. Volenti non fit injuria.—*That to which a person assents is not esteemed in law an injury.*

The meaning of this rule is that no one can maintain an action for a wrong when he has consented to the act which occasions his loss.

23. Actus non facit reum, nisi mens sit rea.—*The act itself does not make a man guilty unless his intention were so.*

"It is," says Lord *Kenyon*, "a principle of natural justice and of our law that the intent and the act must both concur to constitute the crime."

24. Nemo debet bis vexari pro unâ et eâdem causâ.—*It is a rule of law that a man shall not be twice vexed for one and the same cause.*

“If,” says Lord Kenyon, “an action be brought, and the merits of the question be discussed between the parties, and a final judgment obtained by either, the parties are concluded and cannot canvass the same question again in another action.”

25. Qui prior est tempore potior est jure.—*He has a better title who was first in point of time.*

This maxim treats of the acquisition of property, and sets forth the general principle that title is acquired by priority of occupation.

26. Sic utere tuo ut alienum non lædas.—*Enjoy your own property in such a manner as not to injure that of another person.*

This, and the following three maxims, treat of the enjoyment of property. “Every man,” says Lord Truro, “is restricted against using his property to the prejudice of others.”

27. Cujus est solum ejus est usque ad cœlum.—*He who possesses land possesses also that which is above it.*

Land, in its legal signification, is a *nomen generalissimum* and has an indefinite extent upwards, so that by a conveyance of land, all buildings erected thereon will likewise pass.

28. Quicquid plantatur solo, solo cedit.—*Whatever is affixed to the soil belongs thereto.*

It is a rule of great antiquity that whatever is affixed to the soil becomes, in contemplation of law, a part of it, and is consequently subject to the same rights of property as the soil itself.

29. Domus sua cuique est tutissimum refugium.—*Every man's house is his castle.*

By virtue of this maxim a man's house is a refuge for him for his defence against injury and violence ; accordingly, in the ordinary cases of the execution of civil process no person is warranted in breaking open the outer door of a man's house.

30. Cujus est dare ejus est disponere.—*The bestower of a gift has a right to regulate its disposal.*

This maxim treats of the transfer of property, and must at the present day be received with very considerable modification. "It must not be inferred," says

Lord Brougham, "that incidents of a novel kind can be devised and attached to property at the fancy or caprice of any owner."

31. *Nemo est hæres viventis.*—*No one can be heir during the life of his ancestor.*

This rule relates to descent. By law, no inheritance can vest, nor can any person be the actual heir of another, till his ancestor is dead ; before the happening of this event he is the heir-apparent or heir-presumptive.

32. *Hæreditas nunquam ascendit.*—*The right of inheritance never lineally ascends.*

This was an express rule of the feudal law. The law of inheritance has now been entirely altered by recent legislation, and the rule must now be accepted with considerable modifications.

33. *Verba chartarum fortius accipiuntur contra proferentem.*—*The words of an instrument shall be taken most strongly against the party employing them.*

This is a rule which relates to the interpretation of deeds, and its meaning is that as between the grantor and the grantee, if the words of the grant are of doubtful

import, that construction shall be placed upon them which is most favourable to the grantee.

34. *Certum est quod certum reddi potest.—That is sufficiently certain which can be made certain.*

This maxim is a rule of logic, as well as a rule of law. Lord Coke, applying the maxim to an estate for years, says, “albeit there appear no certainty of years in the lease, yet, if by reference to certainty, it may be made certain, it sufficeth.”

35. *Utile per inutile non vitiatur.—Surplusage does not vitiate that which in other respects is good and alid.*

It is a rule of extensive application with reference to the construction of written instruments, that matter which is mere surplusage may be rejected.

36. *Falsa demonstratio non nocet.—Mere false description does not make an instrument inoperative.*

The characteristic of the cases within this maxim is that “the description so far as it is false applies to no subject at all, and so far as it is true applies to one only.”

37. Expressio unius est exclusio alterius.—*The express mention of one thing implies the exclusion of another.*

This rule may be otherwise worded *expressum facit cessare tacitum*, and enunciates one of the first principles applicable to the construction of written instruments.

38. Qui hæret in literâ hæret in cortice.—*He who considers merely the letter of an instrument goes but skin deep into its meaning.*

The law of England respects the effect and substance of the matter, and not every nicety of form or substance. Hence it is a general and comprehensive rule connected with the interpretation of written instruments that, where the intention is plain, too great a stress should not be laid on the strict and precise signification of words.

39. In æquali jure melior est conditio possidentis.—*Where the right is equal, the claim of the party in actual possession shall prevail.*

This maxim is peculiarly, though not exclusively, applicable to contracts, and expresses in technical language the rule that “possession is nine points of the law.’

40. *Ex dolo malo non oritur actio.*—*A right of action cannot arise out of fraud.*

It is a familiar principle in English law that no valid contract can arise out of a fraud. In the words of Chief Justice Wilmot, "you shall not stipulate for iniquity," no polluted hand shall touch the pure fountains of justice.

41. *Ex nudo pacto non oritur actio.*—*No cause of action arises from a bare promise.*

The force of this maxim is thus rendered by Blackstone: "A consideration of some sort or other is so necessary to the forming of a contract, that a *nudum pactum*, or agreement to do or pay something on one side, without any compensation on the other, will not at law support an action."

42. *Caveat emptor.*—*Let a purchaser beware.*

It is a maxim of our common law that "if a man buy lands whereunto another hath title, which the buyer knoweth not, yet ignorance shall not excuse him."

43. *Qui facit per alium facit per se.*—*He who does an act through the medium of another party does it by himself.*

This maxim enunciates the general doctrine on which the law relative to the rights and liabilities of principal and agent depends.

44. *Respondeat superior.*—*Let the principal be held responsible.*

This doctrine may be illustrated as follows. "If the servant commit a trespass by the command or encouragement of his master, the master shall be guilty of it, though the servant is not thereby excused, for he is only to obey his master in matters that are honest and lawful."

45. *Omnis ratihabitio retrotrahitur et mandato priori æquiparatur.* — *A subsequent ratification has a retrospective effect, and is equivalent to a prior command.*

"No maxim," remarks Mr. Justice *Story*, "is better settled in reason and law, at all events, where it does not prejudice the rights of strangers."

46. *Vigilantibus, non dormientibus, jura subveniunt.*—*The laws assist those who are vigilant, not those who sleep over their rights.*

This maxim, while it exemplifies the general policy of

our law, has its principal application in the limitation of actions. "The using of legal diligence," says Heath J., "is always favoured, and shall never turn to the disadvantage of the creditor."

47. *Actio personalis moritur cum personâ.*—*A personal right of action dies with the person.*

The personal right of action intended by this maxim is that right of action which a person has for some wrong done to his person, and it is to actions *ex delicto* that the rule is peculiarly applicable.

48. *Optimus interpres rerum usus.*—*Usage is the best interpreter of things.*

This, and the following two maxims, are rules of evidence. Custom is a law not written but established by long usage; and hence it is said that usage is the legal evidence of custom.

49. *Omnia præsumuntur ritè et solenniter esse acta.*—*All acts are presumed to have been rightly and regularly done.*

"It is a maxim of the law of England," says Baron Pollock, "to give effect to everything which appears to have been established for a considerable course of time,

and to presume that what has been done was done of right, and not of wrong."

50. *Nemo tenetur seipsum accusare.*—*No man can be compelled to criminate himself.*

This maxim is quite in accord with the *genius* of the English law. "The proposition is clear," says Lord Eldon, "that no man can be compelled to answer what has any tendency to criminate him."

## APPENDIX K. — LIST OF ABBREVIATIONS USED IN SOLICITORS' OFFICES.

*NOTE.—It is usual, in abbreviating, to draw a short stroke over the abbreviated word.*

|                |                      |                |                         |
|----------------|----------------------|----------------|-------------------------|
| Abstract       | abst <sup>t</sup> .  | Between        | betn.                   |
| Adjourned      | adj <sup>d</sup> .   | Bequeathed     | bequed.                 |
| Adjudication   | adjud <sup>n</sup> . | Brief          | bf.                     |
| Administratrix | admix.               | Buildings      | bldgs.                  |
| Administrator  | admor.               |                |                         |
| Administration | admon.               | Carriage       | carre.                  |
| Affidavit      | afft.                | Certificate    | certe.                  |
| Aforesaid      | afsd.                | Charge         | chge.                   |
| After          | ar.                  | Codicil        | cod <sup>l</sup> .      |
| Agreement      | agt.                 | Commissioner   | comm <sup>r</sup> .     |
| Alteration     | alteron.             | Completion     | complon.                |
| Amendment      | amend <sup>t</sup> . | Conference     | confce.                 |
| Another        | anor.                | Consideration  | consor.                 |
| Annuity        | anny.                | Consultation   | consult <sup>n</sup> .  |
| Application    | applon.              | Contained      | cont <sup>d</sup> .     |
| Appurtenances  | appurts.             | Contract       | cont <sup>t</sup> .     |
| Assigns        | assns.               | Conveyance     | convce.                 |
| Assurance      | assce.               | Copy           | co.                     |
| Attendance     | attce.               | Correspondence | corresp <sup>ce</sup> . |
| Attending      | att <sup>g</sup> .   | Counsel        | col.                    |
| Attestation    | attestn.             | Counterclaim   | co. clm.                |
| Attorney       | atty.                | Counterpart    | co. pt.                 |
| At the suit of | ats.                 | Court          | ct.                     |
| Authority      | authy.               | Creditors      | c <sup>rs</sup> .       |
|                |                      |                |                         |
| Balance        | balce.               | Daughters      | daurs.                  |
| Bankruptcy     | bkey.                | Debtors        | d <sup>rs</sup> .       |
| Before         | befc.                | Deceased       | deced.                  |

|                 |                     |                 |                       |
|-----------------|---------------------|-----------------|-----------------------|
| Declaration     | declon.             | Maintenance     | maint <sup>ce</sup> . |
| Defence         | defce.              | Matter          | mre.                  |
| Defendant       | deft.               | Memorandum      | mem.                  |
| Delivered       | deld <sup>d</sup> . | Mentioned       | ment <sup>d</sup> .   |
| Described       | descd.              | Messuage        | messe.                |
| Description     | descron.            | Money           | moy.                  |
| Difference      | diffce.             | Mortgage        | mtge.                 |
| Direction       | diron.              | Mortgagee       | mtgee.                |
| Discharge       | dischge.            | Mortgagor       | mtgor.                |
| Document        | doct.               |                 |                       |
| Draft           | dft.                | Necessary       | necy.                 |
| Drawing         | drg.                | Notwithstanding | notwstg.              |
|                 |                     |                 |                       |
| Easement        | easmt.              | Observation     | obervon.              |
| Estate          | este.               | Obtained        | obt <sup>d</sup> .    |
| Evidence        | evce.               | Occupation      | occupon.              |
| Executor        | exor.               | Opinion         | op <sup>n</sup> .     |
| Execution       | exon.               | Originals       | orig <sup>ls</sup> .  |
| Ex parte        | ex pte.             | Other           | or.                   |
|                 |                     |                 |                       |
| Fair copy       | f. co.              | Parcel          | pcl.                  |
| Fieri facias    | fi. fa.             | Parchment       | parcht.               |
| Folio           | fo.                 | Part            | pt.                   |
|                 |                     | Particulars     | parlars.              |
| Guinea          | gua.                | Performance     | perfce.               |
|                 |                     | Plaintiff       | plt.                  |
| Heirs           | hrs.                | Premises        | premes.               |
| Hereafter       | herear.             | Production      | prodon.               |
| Hereinafter     | hernar.             | Provisions      | provons.              |
|                 |                     | Purchaser       | pchsr.                |
| Incumbrances    | incumbs.            | Purpose         | ppse.                 |
| Indenture       | indre.              | Pursuant        | purst.                |
| Inheritance     | inhance.            |                 |                       |
| Instructions    | instrons.           | Reciting        | rect.                 |
| Interest        | int.                | Reference       | refce.                |
| Interrogatories | interrogs.          | Regulation      | regulon.              |
|                 |                     | Requisitions    | requons.              |
| Judgment        | judgmt.             | Residuary       | residy.               |
| Jurisdiction    | jurisdon.           | Respectively    | resply.               |
|                 |                     | Reversion       | revon.                |
| Lease           | le.                 |                 |                       |
| Letters         | lres.               | Said            | sd.                   |
| Liquidation     | liquon.             | Schedule        | sched.                |
| Locus Sigilli   | L. S.               |                 |                       |

|                             |                     |              |          |
|-----------------------------|---------------------|--------------|----------|
| Security                    | secy.               | Thereby      | thby.    |
| Signature                   | signe.              | Thereinafter | thernar. |
| Situate                     | site.               | Thereof      | thof.    |
| Stamp                       | stp.                | Thereon      | thon.    |
| Statement                   | stat <sup>t</sup> . | Transfer     | tfer.    |
| Subpœna                     | spa.                | Trustee      | tree.    |
| Subpœna ad<br>testificandum | } spa. ad test.     | Valuation    | valuon.  |
| Subpœna duces<br>tecum      |                     | Versus       | v.       |
| Sufficient                  | sufft.              | Whereas      | whas.    |
| Summons                     | sums.               | Whereof      | whof.    |
| Survivor                    | survor.             | Whether      | wher.    |
|                             |                     | Witnessed    | witned.  |
| Tenement                    | tenemt.             | Witnesses    | witnes.  |
| Testament                   | test <sup>t</sup> . | Witnesseth   | witneth. |
| Testator                    | testor.             | Writing      | wrg.     |
| Testatrix                   | testrix.            | Your         | yr.      |

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